

Table of Contents

2018 Regular Session

Volume I

Chapters 1 - 209

CHAPTER 1 (SB 3, Neal and others)	1
CHAPTER 2 (SB 70, McDaniel)	1
CHAPTER 3 (HB 146, Rowland and others)	2
CHAPTER 4 (HB 157, Imes)	5
CHAPTER 5 (HB 84, Palumbo and others)	7
CHAPTER 6 (HB 150, Westrom and others)	8
CHAPTER 7 (HB 92, York and others)	10
CHAPTER 8 (HB 314, DeCesare and others)	10
CHAPTER 9 (SB 56, Thayer)	11
CHAPTER 10 (SB 91, Wilson)	12
CHAPTER 11 (HB 4, Wuchner and others)	16
CHAPTER 12 (HB 259, Horlander and others)	17
CHAPTER 13 (HB 5, Jenkins and others)	20
CHAPTER 14 (HB 64, Lee and others)	28
CHAPTER 15 (HB 74, King and Thomas)	30
CHAPTER 16 (HB 136, Palumbo and others)	31
CHAPTER 17 (SCR 171, Buford and others)	35
CHAPTER 18 (HB 220, Rowland and Nemes)	36
CHAPTER 19 (SB 30, Jones II and others)	37
CHAPTER 20 (SB 86, Humphries)	41
CHAPTER 21 (SB 98, Thayer and others)	44
CHAPTER 22 (HB 100, Bechler and others)	46
CHAPTER 23 (HB 120, Richards and others)	51
CHAPTER 24 (HB 177, Miller)	51
CHAPTER 25 (HB 241, Gooch Jr. and others)	57
CHAPTER 26 (HB 22, Meeks and others)	59
CHAPTER 27 (SB 68, Harper Angel and others)	64
CHAPTER 28 (SB 119, Hornback and Girdler)	64
CHAPTER 29 (SB 129, Carpenter)	67
CHAPTER 30 (HB 213, King and others)	113
CHAPTER 31 (HB 264, Castlen)	113
CHAPTER 32 (SJR 218, Girdler)	125
CHAPTER 33 (SB 116, Harris)	126

CHAPTER 34 (SB 109, Kerr and others)	131
CHAPTER 35 (SB 106, Harper Angel and Adams)	132
CHAPTER 36 (SB 48, Harper Angel and others)	139
CHAPTER 37 (HB 305, Pratt)	143
CHAPTER 38 (HB 33, Richards and others)	155
CHAPTER 39 (SB 122, Seum and others)	157
CHAPTER 40 (HB 2, DeCesare and others)	160
CHAPTER 41 (HB 46, Fischer and others)	185
CHAPTER 42 (HB 70, Richards and others)	191
CHAPTER 43 (HB 101, Wayne and others)	196
CHAPTER 44 (HB 191, Gooch Jr. and others)	198
CHAPTER 45 (HB 223, Graham and Pratt)	203
CHAPTER 46 (HB 260, Mills)	205
CHAPTER 47 (HB 310, Rothenburger and Thomas)	228
CHAPTER 48 (HB 343, Richards and others)	230
CHAPTER 49 (HB 329, Richards and others)	231
CHAPTER 50 (HB 71, Richards and others)	232
CHAPTER 51 (HCR 152, Lee and others)	233
CHAPTER 52 (HJR 33, Elliott)	235
CHAPTER 53 (HB 30, Palumbo and others)	235
CHAPTER 54 (HB 388, Tipton)	242
CHAPTER 55 (HB 385, Santoro and Upchurch)	253
CHAPTER 56 (HB 360, Carney)	254
CHAPTER 57 (HB 348, Hoover and others)	255
CHAPTER 58 (HB 319, Richards and others)	261
CHAPTER 59 (HB 307, Johnson)	265
CHAPTER 60 (HB 128, Marzian and others)	267
CHAPTER 61 (HB 124, Wuchner and Moser)	270
CHAPTER 62 (SB 204, Kerr and Westerfield)	272
CHAPTER 63 (HB 81, Miller and Morgan)	273
CHAPTER 64 (SB 182, Harris)	279
CHAPTER 65 (SB 142, Carroll)	280
CHAPTER 66 (SB 140, Robinson)	281
CHAPTER 67 (SB 130, McDaniel)	281
CHAPTER 68 (SB 108, Kerr)	283
CHAPTER 69 (SB 138, Girdler)	285
CHAPTER 70 (SB 104, Hornback)	295
CHAPTER 71 (SB 152, Kerr and others)	300
CHAPTER 72 (SB 131, Schroder)	301
CHAPTER 73 (HCR 35, Moser and Johnson)	304

CHAPTER 74 (SB 37, Harris and others)	305
CHAPTER 75 (HB 290, Osborne and others)	312
CHAPTER 76 (HB 289, Wuchner and others)	315
CHAPTER 77 (HB 263, Richards and others)	323
CHAPTER 78 (HB 244, St. Onge)	329
CHAPTER 79 (HB 176, Westrom and others)	338
CHAPTER 80 (HB 158, Rowland)	339
CHAPTER 81 (HB 132, Riggs and others)	340
CHAPTER 82 (HB 291, Richards and others)	340
CHAPTER 83 (HB 275, Meredith)	341
CHAPTER 84 (HB 164, DeCesare and Meredith)	343
CHAPTER 85 (HB 261, Gooch Jr.)	348
CHAPTER 86 (HB 218, Greer and others)	365
CHAPTER 87 (HB 198, Gooch Jr. and Nemes)	367
CHAPTER 88 (HB 187, Graham and others)	373
CHAPTER 89 (HB 140, Osborne and others)	378
CHAPTER 90 (HB 122, Richards and others)	394
CHAPTER 91 (SJR 158, Girdler)	399
CHAPTER 92 (SB 203, Wise)	400
CHAPTER 93 (SB 160, Adams and Girdler)	402
CHAPTER 94 (SB 249, Carpenter)	404
CHAPTER 95 (SB 126, Carroll)	424
CHAPTER 96 (SB 61, McDaniel)	426
CHAPTER 97 (HB 398, Riggs and others)	426
CHAPTER 98 (HB 370, Gooch Jr. and others)	426
CHAPTER 99 (HB 281, Pratt)	432
CHAPTER 100 (HB 214, Palumbo and Upchurch)	442
CHAPTER 101 (HB 168, Hoover and Belcher)	442
CHAPTER 102 (HB 133, Turner and others)	443
CHAPTER 103 (HB 116, Moore and others)	444
CHAPTER 104 (HB 68, Richards and others)	445
CHAPTER 105 (SB 101, Wise)	446
CHAPTER 106 (HB 69, Prunty and Fleming)	453
CHAPTER 107 (SB 151, Bowen)	463
CHAPTER 108 (SB 6, Kerr and others)	581
CHAPTER 109 (SB 19, Buford and others)	583
CHAPTER 110 (SJR 52, Parrett and Carroll)	585
CHAPTER 111 (SB 57, Bowen and others)	586
CHAPTER 112 (SB 96, Kerr)	588
CHAPTER 113 (SB 123, Stivers II and Wise)	601
CHAPTER 114 (SB 132, Adams)	601

CHAPTER 115 (SB 133, Kerr and others).....	619
CHAPTER 116 (SB 137, Westerfield)	626
CHAPTER 117 (SB 139, West)	627
CHAPTER 118 (SB 144, Humphries).....	631
CHAPTER 119 (SCR 176, Seum and others).....	633
CHAPTER 120 (SB 201, Kerr).....	634
CHAPTER 121 (SB 181, Carroll)	641
CHAPTER 122 (SB 202, Wise).....	647
CHAPTER 123 (SB 210, Seum).....	648
CHAPTER 124 (SB 211, Girdler)	648
CHAPTER 125 (SB 250, Adams)	659
CHAPTER 126 (HCR 7, Rudy and others).....	660
CHAPTER 127 (HB 93, Elliott).....	661
CHAPTER 128 (HB 96, Reed and others).....	663
CHAPTER 129 (HB 114, Gooch Jr. and others)	670
CHAPTER 130 (HB 138, Koenig).....	673
CHAPTER 131 (HB 142, Couch and others)	674
CHAPTER 132 (HCR 226, Mayfield and Bentley).....	675
CHAPTER 133 (HB 246, Wuchner and others)	676
CHAPTER 134 (HB 252, DeCesare and others).....	677
CHAPTER 135 (HB 277, Upchurch)	683
CHAPTER 136 (HB 327, Webber).....	688
CHAPTER 137 (HB 434, Carney and Rowland).....	702
CHAPTER 138 (HB 424, Osborne and Carney).....	707
CHAPTER 139 (HB 373, Osborne and Benvenuti III)	711
CHAPTER 140 (HB 369, Greer and Rowland)	714
CHAPTER 141 (HB 363, Osborne and others).....	715
CHAPTER 142 (HB 454, Fischer and others).....	716
CHAPTER 143 (HB 444, Benvenuti III)	720
CHAPTER 144 (HB 463, Greer and others)	739
CHAPTER 145 (HB 475, Dossett and others).....	740
CHAPTER 146 (HB 512, Blanton).....	742
CHAPTER 147 (HB 527, Carney and others).....	743
CHAPTER 148 (HB 530, Richards and others).....	744
CHAPTER 149 (HB 586, Richards and Tipton).....	748
CHAPTER 150 (HB 606, Santoro and Blanton).....	748
CHAPTER 151 (HB 185, Gooch Jr. and others)	750
CHAPTER 152 (HB 167, Dossett and others).....	773
CHAPTER 153 (HB 147, Horlander and others)	776
CHAPTER 154 (SB 110, Higdon and Embry Jr.)	783

CHAPTER 155 (SB 97, Girdler)	785
CHAPTER 156 (SB 71, Wilson and others)	786
CHAPTER 157 (SB 5, Bowen and others)	786
CHAPTER 158 (HB 3, Richards and others)	790
CHAPTER 159 (HB 1, Horlander and others)	798
CHAPTER 160 (HB 270, Richards and Imes)	847
CHAPTER 161 (HJR 74, Rudy and Santoro)	848
CHAPTER 162 (HB 381, Osborne and Imes)	1014
CHAPTER 163 (HB 394, Miller)	1020
CHAPTER 164 (HB 400, Westrom and others)	1054
CHAPTER 165 (HB 497, Riggs and Elliott)	1061
CHAPTER 166 (HJR 196, Petrie)	1070
CHAPTER 167 (HB 202, Rudy and others)	1075
CHAPTER 168 (HB 324, Westrom and St. Onge)	1289
CHAPTER 169 (HB 200, Rudy and others)	1290
CHAPTER 170 (HB 362, Moore and others)	1390
CHAPTER 171 (HB 366, Rudy and Fleming)	1399
CHAPTER 172 (HB 148, Palumbo and others)	1561
CHAPTER 173 (HB 204, Rudy)	1562
CHAPTER 174 (SB 73, Givens and others)	1564
CHAPTER 175 (HB 153, Gooch Jr. and others)	1570
CHAPTER 176 (HB 302, Bentley)	1572
CHAPTER 177 (HB 306, Rowland)	1588
CHAPTER 178 (HB 323, Riggs)	1589
CHAPTER 179 (HB 334, Richards)	1591
CHAPTER 180 (HB 345, Rowland)	1597
CHAPTER 181 (HB 356, Petrie)	1601
CHAPTER 182 (HB 402, Greer and Rowland)	1602
CHAPTER 183 (HB 427, Marzian and others)	1606
CHAPTER 184 (HB 429, Petrie)	1619
CHAPTER 185 (HB 11, Shell)	1620
CHAPTER 186 (SB 78, Westerfield)	1629
CHAPTER 187 (SB 112, Wilson and others)	1631
CHAPTER 188 (SB 150, Girdler)	1647
CHAPTER 189 (HB 193, Lee and others)	1652
CHAPTER 190 (HB 207, Wayne and others)	1654
CHAPTER 191 (HB 430, Petrie)	1655
CHAPTER 192 (HB 431, Petrie)	1656
CHAPTER 193 (HB 443, Benvenuti III)	1658
CHAPTER 194 (HB 464, Riggs and others)	1661
CHAPTER 195 (HB 476, Blanton)	1671

CHAPTER 196 (HB 513, Graham and others)	1673
CHAPTER 197 (HB 517, Petrie and others)	1679
CHAPTER 198 (HB 528, Bratcher and others)	1681
CHAPTER 199 (HB 557, Petrie)	1685
CHAPTER 200 (HB 592, Carney)	1726
CHAPTER 201 (SB 200, Stivers II)	1733
CHAPTER 202 (HB 169, Lee and others)	1735
CHAPTER 203 (HB 265, Palumbo and others)	1740
CHAPTER 204 (SB 88, Bowen and others)	1744
CHAPTER 205 (SB 228, McGarvey)	1744
CHAPTER 206 (HB 367, Westrom and others)	1754
CHAPTER 207 (HB 487, Pratt)	1755
CHAPTER 208 (HB 201, Rudy and Osborne)	1933
CHAPTER 209 (HB 203, Rudy and Nemes)	1940

CHAPTER 1

(SB 3)

AN ACT proposing to create a new section of the Constitution of Kentucky relating to crime victims' rights.

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

➔SECTION 1. IT IS PROPOSED THAT A NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AS FOLLOWS:

To secure for victims of criminal acts or public offenses justice and due process and to ensure crime victims a meaningful role throughout the criminal and juvenile justice systems, a victim, as defined by law which takes effect upon the enactment of this section and which may be expanded by the General Assembly, shall have the following rights, which shall be respected and protected by law in a manner no less vigorous than the protections afforded to the accused in the criminal and juvenile justice systems: victims shall have the reasonable right, upon request, to timely notice of all proceedings and to be heard in any proceeding involving a release, plea, sentencing, or other matter involving the right of a victim other than grand jury proceedings; the right to be present at the trial and all other proceedings, other than grand jury proceedings, on the same basis as the accused; the right to proceedings free from unreasonable delay; the right to consult with the attorney for the Commonwealth or the attorney's designee; the right to reasonable protection from the accused and those acting on behalf of the accused throughout the criminal and juvenile justice process; the right to timely notice, upon request, of release or escape of the accused; the right to have the safety of the victim and the victim's family considered in setting bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction; the right to full restitution to be paid by the convicted or adjudicated party in a manner to be determined by the court, except that in the case of a juvenile offender the court shall determine the amount and manner of paying the restitution taking into consideration the best interests of the juvenile offender and the victim; the right to fairness and due consideration of the crime victim's safety, dignity, and privacy; and the right to be informed of these enumerated rights, and shall have standing to assert these rights. The victim, the victim's attorney or other lawful representative, or the attorney for the Commonwealth upon request of the victim may seek enforcement of the rights enumerated in this section and any other right afforded to the victim by law in any trial or appellate court with jurisdiction over the case. The court shall act promptly on such a request and afford a remedy for the violation of any right. Nothing in this section shall afford the victim party status, or be construed as altering the presumption of innocence in the criminal justice system. The accused shall not have standing to assert the rights of a victim. Nothing in this section shall be construed to alter the powers, duties, and responsibilities of the prosecuting attorney. Nothing in this section or any law enacted under this section creates a cause of action for compensation, attorney's fees, or damages against the Commonwealth, a county, city, municipal corporation, or other political subdivision of the Commonwealth, an officer, employee, or agent of the Commonwealth, a county, city, municipal corporation, or any political subdivision of the Commonwealth, or an officer or employee of the court. Nothing in this section or any law enacted under this section shall be construed as creating:

- (1) *A basis for vacating a conviction; or*
- (2) *A ground for any relief requested by the defendant.*

➔Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415. The question to be submitted to the voters shall read as follows: "Are you in favor of providing constitutional rights to victims of crime, including the right to be treated fairly, with dignity and respect, and the right to be informed and to have a voice in the judicial process?"

Signed by Governor January 25, 2018.

CHAPTER 2

(SB 70)

AN ACT authorizing a University of Louisville capital project, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. There is hereby authorized and appropriated \$8,000,000 in Other Funds in fiscal year 2017-2018 for the construction of a television broadcast/production studio and the construction or renovation of associated network infrastructure at the University of Louisville pursuant to KRS 45.763.

➔Section 2. Whereas it is imperative that the commencement of this capital project begins in fiscal year 2017-2018, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Became law without Governor's signature February 10, 2018.

CHAPTER 3

(HB 146)

AN ACT relating to reorganization.

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

➔Section 1. KRS 246.030 is amended to read as follows:

The department shall consist of:

- (1) The Office of the Commissioner;~~[-, which shall include the Division of Public Relations.~~
- ~~(2) The Office of the Chief Executive Officer.~~
- ~~(2)~~~~(3)~~ The Office ~~of~~~~for~~ Agricultural Marketing~~[- and Product Promotion]~~, which shall include the following:
 - (a) The **Promotion and Development** Division~~[- of Agriculture Marketing and Agribusiness Recruitment]~~;
 - (b) The **Shows and Fairs** Division~~[- of Show and Fair Promotion]~~;
 - (c) The **Livestock** Division~~[- of Value Added Animal and Aquaculture Production]~~;
 - (d) The **Plant** Division~~[- of Value Added Plant Production]~~;
 - (e) The **Education and Outreach** Division~~[- of Agricultural Education, Farm Safety, and Farmland Preservation]~~; and
 - (f) The **Direct Farm Marketing** Division;~~[- of Agritourism.]~~
- ~~(3)~~~~(4)~~ The Office for Consumer and Environmental Protection, which shall include the following:
 - (a) The Division of Regulation and Inspection;
 - (b) The Division of Food Distribution; and
 - (c) The Division of Environmental Services;~~[-]~~
- ~~(4)~~~~(5)~~ The Office of State Veterinarian, which shall include the following:
 - (a) The Division of Animal Health; and
 - (b) The Division of Producer Services;~~[-]~~
- ~~(5)~~~~(6)~~ The Office **of Administrative Services**~~[- for Strategic Planning and Administration]~~, which shall include the following:
 - (a) The Division of **Human Resources**;~~[- Personnel and Budget]~~
 - (b) The Division of Administrative Services**; and
 - ~~(c)~~~~(b)~~ The Division of Information Technology;~~[-]~~
- (6) The Office of Communications;**
- (7) The Office of Legal Services; and**
- ~~(8)~~~~(7)~~ The State Board of Agriculture.

➔Section 2. KRS 246.130 is amended to read as follows:

The board shall meet ~~[in Frankfort]~~ at least *four (4) times per year* ~~[once every two (2) months, or at any other place it may determine.]~~ to consider the general agricultural, horticultural, and forestry interests of the state, and to take the necessary steps for carrying out the purpose of the board. The Commissioner may, and at the request of six (6) of its voting members shall, call its meetings and the board may adjourn any meeting to a time and place as may be determined. Six (6) voting members shall constitute a quorum. Six (6) members may call the board together for the transaction of business if the Commissioner, upon their request, refuses to do so.

➔Section 3. KRS 247.220 is amended to read as follows:

- (1) The Commissioner of Agriculture shall make grants of state funds to qualified local agricultural fairs on a matching basis, to be used by them to pay premium awards for exhibits and displays of domestic livestock, poultry, harness horse racing, other horse events, and agricultural products. The premiums actually awarded shall conform to those appearing on the premium list issued by the fair.
- (2) The state may provide funds for use in the establishment of new facilities and improvement of existing facilities for use in conducting events at local agricultural fairs as provided by this section. No grant for buildings shall be made until the local fair board has complied with the local fair program and qualified for the state grant as provided in subsection (5) of this section. Grants for facilities shall be made under regulations promulgated by the Fair Council and the Commissioner of Agriculture. In no event shall the allocation for facilities result in a decrease in the number of approved agricultural classes or premiums.
- (3) There shall be a Fair Council in the Department of Agriculture. The council shall act in an advisory capacity to the Commissioner in all matters pertaining to the administration of the department's fair program. It shall be called into session when there are matters for its consideration. It shall meet at least twice each calendar year at Frankfort or at any other place that may be determined.
- (4) (a) The council shall be composed of the:
 1. Commissioner as chairman ex officio;
 2. Presidents or their designated representatives of the following state groups:
 - a. Kentucky Farm Bureau Federation;
 - b. Kentucky Association of Fairs and Horse Shows, Inc.;
 - c. Kentucky Colt Racing Association;
 - d. American Saddlebred Horse Association; and
 - e. Kentucky Walking Horse Association;
 3. Agricultural Education Consultant of the Kentucky Department of Education;
 4. Dean of the University of Kentucky College of Agriculture, Food and Environment;
 5. Co-chairs of the Interim Joint Committee on Agriculture; and
 6. A representative appointed by the Commissioner who is involved with, or experienced in, animal agriculture.
- (b) The Commissioner may, with the concurrence of a majority of the members of the council, appoint additional members to the council.
- (5) To qualify for a grant of state funds, a fair shall meet standards set by the Commissioner and his advisory council whose approval may be given only if the fair:
 - (a) Provides in its bylaws for holding an annual fair running for at least three (3) days;
 - (b) Presents, through the medium of youth organizations such as 4-H clubs, Future Farmers of America, and other similar organizations, an educational program concerning the production and marketing of the livestock, poultry, and horse industries;
 - (c) Complies with all administrative regulations which the Department of Agriculture is hereby authorized to promulgate; and
 - (d) Appoints one (1) or more members to its fair board from local livestock associations, horsemen's associations, and county farm bureaus, and selects one (1) or more county extension agents and

vocational agriculture teachers for counties served by the fair as members of the board. Wherever local livestock associations, horsemen's associations, and farm bureaus are in existence, appointees are to be nominated to the fair board by these organizations. Where fairs serve an area, appointments may be made from all counties within the particular area. It shall be the responsibility of the appointees to aid in establishing premium lists and planning agricultural exhibits.

- (6) Any fair receiving a grant of state funds shall file with the director of the *Shows and Fairs* Division~~[of Show and Fair Promotion]~~ in the Department of Agriculture, by December 1 of the year in which the grant is received, satisfactory proof that all state premium awards have been paid and a certified notarized financial report submitted by the treasurer of the local fair association.

➔Section 4. KRS 247.800 is amended to read as follows:

The Department of Agriculture, in conjunction with the Tourism, Arts and Heritage Cabinet, shall create an interagency~~[Office of]~~ agritourism *program* to be housed in the~~[Division of Agritourism within the]~~ Office ~~of~~for Agricultural Marketing~~[and Product Promotion]~~ in the Department of Agriculture. It shall be the purpose of the ~~Office of]~~ agritourism *program* to:

- (1) Promote agritourism in Kentucky to potential visitors, both national and international; and
- (2) Assist in sustaining the viability and growth of the agritourism industry in Kentucky.

➔Section 5. KRS 260.020 is amended to read as follows:

- (1) The Office ~~of~~for Agricultural Marketing~~[and Product Promotion]~~ in the Department of Agriculture shall be under the supervision of the Commissioner, and shall consist of personnel determined and appointed by the Commissioner.
- (2) The Office ~~of~~for Agricultural Marketing~~[and Product Promotion]~~ shall be headed by an executive director appointed by the Commissioner.
- (3) The Commissioner may promulgate administrative regulations to carry out the provisions of any programs established under the Office ~~of~~for Agricultural Marketing~~[and Product Promotion]~~, and may establish fees for the administration of those programs.

➔Section 6. KRS 260.030 is amended to read as follows:

- (1) The Office ~~of~~for Agricultural Marketing~~[and Product Promotion]~~ shall:
 - (a) Promote and develop markets for Kentucky agricultural products, assist in setting up farm cooperatives, and assist in coordinating feasibility studies, loans, grants, and funding activities for producers and cooperatives;
 - (b) Gather and disseminate information concerning supply, demand, prevailing prices, and commercial movement, including common and cold storage of food products, and maintain market news service for the purpose of disseminating this information;
 - (c) Foster and encourage the inspection, grading, standardizing, labeling, and branding of farm products; provide standards of excellence and brands for the use of producers and consumers in the marketing of Kentucky-grown products; and promote the standardization of packages and containers for those purposes;
 - (d) Promulgate administrative regulations for the grading, packing, hauling, storing, and sale of farm products if the administrative regulations are authorized by statutes, and enforce those administrative regulations;
 - (e) Act as mediator or arbitrator, when invited, in any issue that may arise between producers and distributors of agricultural products;
 - (f) Encourage the establishment of public markets and direct dealing between producer and consumer;
 - (g) Promote the sale of Kentucky-grown products locally, and in domestic and international markets;
 - (h) Encourage the development of a market for the commercial production of earthworms;
 - (i) Negotiate and enter into cooperative agreements with the United States Department of Agriculture or any other appropriate federal agency for carrying out the provisions of this section;

- (j) Develop opportunities for the diversification of Kentucky agriculture, including additional crops and enterprises for tobacco growers; and
- (k) Establish an Organic Agricultural Product Certification Program.
- (2) The functions of the office shall be supplementary to, and not in duplication of, the educational activities of the College of Agriculture of the University of Kentucky.
- (3) In accomplishing its purposes, the office shall not compete with business operated by private capital.

➔Section 7. The General Assembly hereby confirms Executive Order 2017-001, dated November 16, 2017, relating to the reorganization of the Department of Agriculture, to the extent that it is not otherwise confirmed or superseded by this Act.

Became law without Governor's signature February 19, 2018.

CHAPTER 4

(HB 157)

AN ACT relating to elections and declaring an emergency.

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

➔Section 1. KRS 121.015 is amended to read as follows:

As used in this chapter:

- (1) "Registry" means the Kentucky Registry of Election Finance;
- (2) "Election" means any primary, regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, regular, or special election shall be considered a separate election;
- (3) "Committee" includes the following:
 - (a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;
 - (b) "Caucus campaign committee," which means members of one (1) of the following caucus groups who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election, or a committee:
 - 1. House Democratic caucus campaign committee;
 - 2. House Republican caucus campaign committee;
 - 3. Senate Democratic caucus campaign committee;~~and~~
 - 4. Senate Republican caucus campaign committee; *or*
 - 5. *Subdivisions of the state executive committee of a minor political party, which serve the same function as the above-named committees, as determined by regulations promulgated by the registry.*
 - (c) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars (\$1,000);

- (d) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee, political issues committee, inaugural committee, caucus campaign committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;
 - (e) An executive committee of a political party; and
 - (f) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;
- (4) "Contributing organization" means a group which merely contributes to candidates, slates of candidates, campaign committees, caucus campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars (\$100) shall be reported to the registry;
- (5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;
- (6) "Contribution" means any:
- (a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his *or her* agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his *or her* agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121.150;
 - (b) Payment by any person other than the candidate, his *or her* authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
 - (c) Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or
 - (d) Payment by any person other than a candidate, his *or her* authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
- (7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:
- (a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, a slate of candidates, committee, or contributing organization;
 - (b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or
 - (c) An independent expenditure by any individual or permanent committee;
- (8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his *or her* consent for any other person to receive contributions or make expenditures with a view to bringing about his *or her* nomination or election to public office, except federal office;
- (9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a

campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

- (10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his *or her* conduct is of that nature or that the circumstance exists;
- (11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;
- (12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them;
- (13) "Electronic reporting" means the use of technology, having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, by which an individual or other entity submits, compiles, or transmits campaign finance reports to the registry, or by which the registry receives, stores, analyzes, or discloses the reports;
- (14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;
- (15) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;
- (16) "Filer" means any candidate, a slate of candidates, committee, or other individual or entity required to submit financial disclosure reports to the registry; and
- (17) "Filer-side software" means software provided to or used by the filer that enables transmittal of financial reports to the registry.

➔Section 2. Whereas effective and impartial administration of election procedures is vital to the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature February 19, 2018.

CHAPTER 5

(HB 84)

AN ACT relating to organ donation.

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

➔Section 1. KRS 311.1953 is amended to read as follows:

- (1) (a) *If a medical examiner or coroner has knowledge that a decedent whose body is under his or her jurisdiction wishes to be an organ or tissue donor, or* upon request of a procurement organization, a medical examiner or coroner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the medical examiner or coroner.

- (b) If the *body or part of the decedent identified in paragraph (a) of this subsection*~~[decedent's body or part]~~ is medically suitable for transplantation or therapy, the medical examiner or coroner *shall*~~[may]~~ release relevant postmortem examination results to the procurement organization.
 - (c) The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the medical examiner or coroner only if relevant to transplantation or therapy.
- (2) The medical examiner or coroner may conduct a medicolegal investigation by reviewing all medical records, laboratory test results, X-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner or coroner that the medical examiner or coroner determines may be relevant to the investigation.
 - (3) A person that has any information requested by a medical examiner or coroner pursuant to subsection (2) of this section shall provide that information as expeditiously as possible to allow the medical examiner or coroner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation or therapy.
 - (4) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the medical examiner or coroner and a postmortem examination is not required, or the medical examiner or coroner determines that a postmortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the medical examiner or coroner and the procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation or therapy.
 - (5) The medical examiner and procurement organizations shall enter into an agreement setting forth protocols and procedures to govern relations between the parties when an anatomical gift of a part from a decedent under the jurisdiction of the medical examiner has been or might be made, but the medical examiner believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death. Decisions regarding the recovery of organs, tissue, and eyes from such a decedent shall be made in accordance with the agreement. In the event that the medical examiner or coroner denies recovery of an anatomical gift, the procurement organization may request the chief medical examiner to reconsider the denial and to permit the recovery to proceed. The parties shall evaluate the effectiveness of the protocols and procedures at regular intervals.
 - (6) If the medical examiner or coroner or designee allows recovery of a part under subsection (4) or (5) of this section, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the medical examiner or coroner with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.
 - (7) If the chief medical examiner or coroner determines that a medical examiner or designee is required to be present at a removal procedure under subsection (5) of this section, upon request the procurement organization requesting the recovery of the part shall reimburse the medical examiner, or coroner, or designee for the additional cost incurred in complying with subsection (5) of this section.

➔Section 2. This Act may be cited as Courtney's Law.

Signed by Governor March 2, 2018.

CHAPTER 6

(HB 150)

AN ACT relating to the Farms to Food Banks Advisory Committee.

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

➔Section 1. KRS 247.984 is amended to read as follows:

- (1) The *Farms to Food Banks*~~[Surplus Agricultural Commodities]~~ Advisory Committee is hereby created for the purpose of advising the department concerning the implementation and administration of the program

established under KRS 247.980 to 247.986. The committee shall be composed of no fewer than ten (10) but no more than fifteen (15) members appointed by the Commissioner. Membership on the committee shall include:

- (a) Food and nutrition advocates;
 - (b) Regional food bank representatives;
 - (c) Local government representatives;
 - (d) Representatives of the department and Governor's Office;
 - (e) Agricultural commodity producers;
 - (f) Representatives of farm advocacy groups;
 - (g) Representatives of Kentucky public or private colleges and universities; and
 - (h) At-large members designated by the Commissioner.
- (2) The advisory committee shall elect a chairperson during the first organizational meeting.
- (3) The committee shall:
- (a) Advise the department concerning the implementation and administration of KRS 247.980 to 247.986;
 - (b) Make recommendations to the department regarding the content of administrative regulations promulgated by the department in accordance with KRS 247.980 to 247.986;
 - (c) Advise the department on administration of the fund created pursuant to KRS 247.985 by developing a written plan for the expenditure of funds. ***The committee shall meet at least one (1) time a year to review the plan and prepare the annual report.***~~The initial plan shall be completed on or before October 1, 2013, and shall be reviewed and updated if needed on an annual basis on or before October 1 of each year thereafter.~~ The plan shall, at a minimum, include the following:
 - 1. A summary of existing food banks in Kentucky;
 - 2. An evaluation of the needs of the hungry in Kentucky, including the population of areas served by food banks, the percent of the population that is at or below the federal poverty level, an estimate of the number of school children who receive free or reduced-price meals, and other criteria that can measure need; and
 - 3. A proposal for distributing funds to areas of recognized need; and
 - (d) Provide to the Governor and the Legislative Research Commission an annual report by October 1 of each year. The initial report shall include the plan developed under paragraph (c) of this subsection for the expenditure of funds. The initial and future reports shall include details of the amounts and recipients of funds distributed.
- (4) Appointed committee members may be reimbursed for reasonable and necessary expenses incurred while engaged in carrying out the official duties of the committee.
- (5) The committee shall be attached to the Department of Agriculture for administrative purposes.

➔Section 2. KRS 247.985 is amended to read as follows:

- (1) The farms to food banks trust fund is hereby created in the State Treasury as a restricted account to be administered by the department with advice from the ***Farms to Food Banks***~~[Surplus Agricultural Commodities]~~ Advisory Committee established by KRS 247.984, for the purposes provided in this section.
- (2) The fund shall receive amounts collected from the income tax checkoff created in KRS 141.448, and any other proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of this fund.
- (3) Notwithstanding KRS 45.229, any moneys accruing to this fund in any fiscal year, including state appropriations, gifts, grants, federal funds, interest, and any other funds both public and private, shall not lapse but shall be carried forward to the next fiscal year.
- (4) Moneys received in the fund shall only be used for awarding grants to eligible nonprofit organizations pursuant to KRS 247.980 to 247.986.

Signed by Governor March 2, 2018.

CHAPTER 7**(HB 92)**

AN ACT relating to jail canteens and declaring an emergency.

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

➔Section 1. KRS 441.135 is amended to read as follows:

- (1) The jailer may maintain a canteen for the benefit of prisoners lodged in the jail and may assign such jail employees and prisoners to operate the canteen as are necessary for efficient operation.
- (2) All profits from the canteen shall be used:
 - (a) For the benefit and to enhance the well-being of the prisoners; *or*
 - (b) ***To enhance safety and security within the jail.***

The jailer shall keep books of accounts of all receipts and disbursements from the canteen and shall annually report to the county treasurer on the canteen account.

- (3) Allowable expenditures from a canteen account shall include but not be limited to recreational, vocational, and medical purposes.
- (4) Except in counties containing an urban-county government or a consolidated local government, in order to ensure adequate, ongoing funding of jail canteen accounts, beginning July 1, 2007, and on the first day of each fiscal year thereafter, the jail canteen account balance shall at least equal the following amounts based on the average daily inmate population of the jail:
 - (a) 300 prisoners or more\$6,000
 - (b) 200 to 299 prisoners.....\$4,000
 - (c) 100 to 199 prisoners.....\$2,000
 - (d) 99 or fewer prisoners\$1,000
- (5) For purposes of calculating the amount to be transferred to the jail canteen account, the average daily number of inmates shall be equal to the average daily inmate population of the jail in the immediately preceding fiscal year.

➔Section 2. Whereas additional funds are needed to offset budgetary shortfalls, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature March 3, 2018.

CHAPTER 8**(HB 314)**

AN ACT relating to occupational safety and health standards and declaring an emergency.

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

➔Section 1. KRS 338.061 is amended to read as follows:

- (1) Occupational safety and health standards may be adopted, modified, or repealed by the board ***through the administrative regulation process of KRS Chapter 13A*** as it shall deem necessary, ***except the secretary may through an administrative order suspend, delay, or alter enforcement of a promulgated occupational safety and health administrative regulation if the federal government has suspended, delayed, or enjoined the corresponding federal regulation or suspended, delayed, enjoined, or altered the enforcement thereof. Any***

action taken by the secretary to suspend, delay, or alter the enforcement of an occupational safety and health administrative regulation pursuant to this subsection shall be consistent with those taken by the federal government, except that the secretary may enforce an administrative regulation or standard which immediately preceded the administrative regulation whose enforcement is amended, delayed, or altered.

- (2) Established federal standards and national consensus standards may be adopted by reference.

➔Section 2. Whereas without the enactment of this legislation the Labor Cabinet cannot amend or change an administrative regulation in a timely manner to correspond with the immediate actions taken by the U.S. Department of Labor concerning occupational health and safety regulations, an emergency is declared to exist, and this Act shall take effect upon its passage and approval of the Governor or upon its otherwise becoming a law.

Signed by Governor March 8, 2018.

CHAPTER 9

(SB 56)

AN ACT relating to the Kentucky Horse Racing Commission.

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

➔Section 1. KRS 230.225 is amended to read as follows:

- (1) The Kentucky Horse Racing Commission is created as an independent agency of state government to regulate the conduct of horse racing and pari-mutuel wagering on horse racing, and related activities within the Commonwealth of Kentucky. The racing commission shall be attached to the Public Protection Cabinet for administrative purposes.
- (2)
 - (a) The Kentucky Horse Racing Commission shall consist of fifteen (15) members appointed by the Governor, with the secretaries of the Public Protection Cabinet, Tourism, Arts and Heritage Cabinet, and Economic Development Cabinet, or their designees, serving as ex officio ~~nonvoting~~^{voting} members.
 - (b) Two (2) members shall have no financial interest in the business or industry regulated.
 - (c) The members of the racing commission shall be appointed to serve for a term of four (4) years, except the initial terms shall be staggered as follows:
 1. Five (5) members shall serve for a term of four (4) years;
 2. Five (5) members shall serve for a term of three (3) years; and
 3. Five (5) members shall serve for a term of two (2) years.
 - (d) Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.
 - (e) In making appointments, the Governor may consider members broadly representative of the Thoroughbred industry and members broadly representative of the standardbred, quarter horse, Appaloosa, or Arabian industries. The Governor may also consider recommendations from the Kentucky Thoroughbred Owners and Breeders, Inc., the Kentucky Division of the Horsemen's Benevolent and Protective Association, the Kentucky Harness Horsemen's Association, and other interested organizations.
- (3)
 - (a) Members of the racing commission shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions consistent with the reimbursement policy for state employees established by KRS 45.101 and administrative regulations promulgated thereunder.
 - (b) The Governor shall appoint one (1) member of the racing commission to serve as its chairperson who shall serve at the pleasure of the Governor.

- (c) The Governor shall further designate a second member to serve as vice chair with authority to act in the absence of the chairperson.
- (d) Before entering upon the discharge of their duties, all members of the Kentucky Horse Racing Commission shall take the constitutional oath of office.
- (4) (a) The racing commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices.
- (b) The racing commission may hold meetings at any of its offices or at any other place when the convenience of the racing commission requires.
- (c) All meetings of the racing commission shall be open and public, and all persons shall be permitted to attend meetings.
- (d) A majority of the voting members of the racing commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.
- (5) Except as otherwise provided, the racing commission shall be responsible for the following:
 - (a) Developing and implementing programs designed to ensure the safety and well-being of horses, jockeys, and drivers;
 - (b) Developing programs and procedures that will aggressively fulfill its oversight and regulatory role on such matters as medical practices and integrity issues;
 - (c) Recommending tax incentives and implementing incentive programs to ensure the strength and growth of the equine industry;
 - (d) Designing and implementing programs that strengthen the ties between Kentucky's horse industry and the state's universities, with the goal of significantly increasing the economic impact of the horse industry on Kentucky's economy, improving research for the purpose of promoting the enhanced health and welfare of the horse, and other related industry issues; and
 - (e) Developing and supporting programs which ensure that Kentucky remains in the forefront of equine research.

Became law without Governor's signature March 10, 2018.

CHAPTER 10

(SB 91)

AN ACT relating to city financial accountability.

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

➔Section 1. KRS 91A.040 is amended to read as follows:

- (1) Except as provided in subsections (2) and (3) of this section, each city shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body in accordance with subsection (6)(4)(e) of this section, each city shall forward an electronic copy ~~for three (3) paper copies~~ of the audit report to the Department for Local Government for information purposes. ~~The Department for Local Government shall make available upon request either an electronic or paper copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.~~
- (2) A city with a population of less than **two thousand (2,000)**~~one thousand (1,000)~~ based upon the most recent federal decennial census shall, after the close of each odd-numbered fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. **The audit shall include both fiscal years since the prior audit.** The audits shall be completed by February 1 immediately following the fiscal year to be audited. Within ten (10) days of the completion of the audit and its presentation to the city

legislative body in accordance with subsection ~~(6)~~~~(4)~~(e) of this section, the city shall forward an electronic copy ~~for three (3) paper copies~~ of the audit report to the Department for Local Government for information purposes. ~~[The Department for Local Government shall make available on request either an electronic or paper copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.]~~ After the close of each even-numbered fiscal year, each city subject to the provisions of this subsection shall prepare a financial statement in accordance with KRS 424.220 and ***shall, not later than October 1,*** ~~[immediately]~~ forward one (1) electronic ~~for paper~~ copy to the Department for Local Government, ~~[which shall make available on request either an electronic or paper copy of the financial statement to the Legislative Research Commission or to the Auditor of Public Accounts].~~

- (3) Any city, which for any fiscal year receives and expends, from all sources and for all purposes, less than seventy-five thousand dollars (\$75,000), and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. Each city exempted in accordance with this subsection shall annually prepare a financial statement in accordance with KRS 424.220 and ***shall, not later than October 1 following the conclusion of the fiscal year,*** ~~[immediately]~~ forward one (1) electronic ~~or paper~~ copy to the Department for Local Government for information purposes. ~~[The Department for Local Government shall make available upon request either an electronic or paper copy of the financial statement to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.]~~
- (4) ***If a city is required by another provision of law to audit its funds more frequently or more stringently than is required by this section, the city shall also comply with the provisions of that law.***
- (5) ***The Department for Local Government shall, upon request, make available electronic copies of the audit reports and financial statements received by it under subsections (1) to (3) of this section to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.***
- (6) Each city required by this section to conduct an annual or ***biennial*** ~~[biannual]~~ audit shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include but not be limited to requirements that:
 - (a) The auditor be employed to examine the basic financial statements, which shall include the government-wide and fund financial statements;
 - (b) The auditor shall include in the annual ***or biennial*** city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual ***or biennial*** audit report that the funds were expended for the purpose intended;
 - (c) All audit information be prepared in accordance with generally accepted governmental auditing standards which include tests of the accounting records and auditing procedures considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;
 - (d) The auditor shall prepare a typewritten or printed report embodying:
 1. The basic financial statements and accompanying supplemental and required supplemental information;
 2. The auditor's opinion on the basic financial statements or reasons why an opinion cannot be expressed; and
 3. Findings required to be reported as a result of the audit;
 - (e) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and
 - (f) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.
- ~~(7)~~~~(5)~~ A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial

requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.

~~(8)(6)~~ Each city shall, within thirty (30) days after the presentation of an audit to the city legislative body, publish an advertisement in accordance with KRS Chapter 424 containing:

- (a) The auditor's opinion letter;
- (b) The "Budgetary Comparison Schedules-Major Funds," which shall include the general fund and all major funds;
- (c) A statement that a copy of the complete audit report, including financial statements and supplemental information, is on file at city hall and is available for public inspection during normal business hours;
- (d) A statement that any citizen may obtain from city hall a copy of the complete audit report, including financial statements and supplemental information, for his personal use;
- (e) A statement which notifies citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty-five cents (\$0.25) per page; and
- (f) A statement that copies of the financial statement prepared in accordance with KRS 424.220, when a financial statement is required by KRS 424.220, are available to the public at no cost at the business address of the officer responsible for preparation of the statement.

~~[(7) Any city may utilize the alternative publication methods authorized by KRS 424.190(2) to comply with the provisions of this section.]~~

~~(9)(8)~~ ***Any resident of the city or owner of real property within the city may bring an action in the Circuit Court to enforce the provisions of this section.*** Any person who violates any provision of this section shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), in the discretion of the court, which may be recovered only once in a civil action brought by any resident of the city ***or owner of real property within the city***. The costs of all proceedings, including a reasonable fee for the attorney of the resident ***or property owner*** bringing the action, shall be assessed against the unsuccessful party.

(10) In the event of extenuating circumstances that prevent a city from completing and submitting a required audit or financial statement in compliance with the applicable deadlines in subsections (1) to (3) of this section, the city may submit a written request for an extension of time to the Department for Local Government on a form prescribed by the Department for Local Government. The Department for Local Government shall approve the request if it is submitted on or before the applicable deadline, and in the judgment of the Department for Local Government the request is warranted by extenuating circumstances beyond the control of the city. Extensions granted under this subsection shall not exceed nine (9) months from the original due date of the audit or financial statement. If the Department for Local Government approves an extension for a city and the city fails to complete and submit the required audit or financial statement in compliance with that extended deadline, then the provisions of subsection (11) of this section shall apply.

(11) If a city fails to complete an audit or financial statement and submit it to the Department for Local Government as required in subsections (1) to (3) and subsection (10) of this section, the Department for Local Government shall notify the Finance and Administration Cabinet that the city has failed to comply with the audit requirements of this section, and that any funds in the possession of any agency, entity, or branch of state government shall be withheld from the city until further notice. The Department for Local Government shall immediately notify the Finance and Administration Cabinet when the city complies with the requirements of subsections (1) to (3) and subsection (10) of this section for all prior fiscal years it has failed to comply with the audit requirements of this section, and the Finance and Administration Cabinet shall direct the reinstatement of payments to the city, including any funds that were withheld due to the noncompliance.

~~(12)(9)~~ Within a reasonable time after the completion of a special audit or examination conducted pursuant to KRS 43.050, the Auditor shall bill the city for the actual expense of the audit or examination conducted. The actual expense shall include the hours of work performed on the audit or examination as well as reasonable associated costs, including but not limited to travel costs. The bill submitted to the city shall include a statement of the hourly rate, total hours, and total costs for the entire audit or examination.

➔Section 2. KRS 424.220 is amended to read as follows:

- (1) Excepting officers of a city of the first class or a consolidated local government, a county containing such a city or consolidated local government, a public agency of such a city, consolidated local government, or county, or a joint agency of such a city, consolidated local government, and county, or of a school district of such a city, consolidated local government, or county, and excepting officers of a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census or an urban-county government, every public officer of any school district, city, consolidated local government, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, consolidated local government, county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. ~~[Pursuant to subsections (2) and (3) of KRS 91A.040, each city with a population of less than one thousand (1,000) based upon the most recent federal decennial census shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.]~~
- (2) The statement shall show:
 - (a) The total amount of funds collected and received during the fiscal year from each individual source; and
 - (b) The total amount of funds disbursed during the fiscal year to each individual payee. The list shall include only aggregate amounts to vendors exceeding one thousand dollars (\$1,000).
- (3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including but not limited to road department, jails, solid waste, public safety, and administrative personnel.
- (4) The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump-sum expenditures by category, including but not limited to administrative, maintenance, transportation, and food service. The local board of education and the fiscal court shall have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees.
- (5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.
- (6) ~~[(a)]~~ **Except as provided in subsection (7) of this section,** the officer shall ~~[, except in a city publishing its audit in accordance with KRS 91A.040(6),]~~ within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts. ~~[(b)]~~ ~~The appropriate officer of a city that has not conducted an annual audit under the provisions of KRS 91A.040(2) or (3) may publish a legal display advertisement meeting the requirements of subsection (7)(b) of this section which shall satisfy the publication requirements set out in paragraph (a) of this subsection.]~~
 - (a) The appropriate officer of a city **required to perform an audit under Section 1 of this Act**, including the appropriate officer of any municipally owned electric, gas, or water system, ~~may~~ ~~[shall]~~ elect to satisfy the requirements of subsection (6) of this section by:
 - ~~I. [(a)]~~ Publishing an audit report in accordance with **subsection (8) of Section 1 of this Act** ~~[KRS 91A.040(6)]~~; and
- (7) In lieu of the publication requirements of subsection (6) of this section: ~~[,]~~
 - (a) The appropriate officer of a city **required to perform an audit under Section 1 of this Act**, including the appropriate officer of any municipally owned electric, gas, or water system, ~~may~~ ~~[shall]~~ elect to satisfy the requirements of subsection (6) of this section by:
 - ~~I. [(a)]~~ Publishing an audit report in accordance with **subsection (8) of Section 1 of this Act** ~~[KRS 91A.040(6)]~~; and

2. ~~(b)~~ Publishing a legal display advertisement of not less than six (6) column inches in a newspaper qualified under KRS 424.120 that the statement required by subsection (1) of this section has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio and television station which has on file with the city a written request to be provided a statement. The advertisement shall be published within ninety (90) days after the close of the fiscal year.

(b) The appropriate officer of a city that has not conducted an annual audit under the exceptions provided under subsections (2) and (3) of Section 1 of this Act may publish the legal display advertisement meeting the requirements of paragraph (a)2. of this subsection.

- (8) The appropriate officer of a county shall satisfy the requirements of subsection (6) of this section by publishing the county's audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with *subsection (8) of Section 1 of this Act* ~~KRS 91A.040(6)~~.

➔Section 3. KRS 42.460 is amended to read as follows:

Except as provided in *subsection (6)(b) of Section 1 of this Act* ~~KRS 91A.040(4)(b)~~, any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the Department for Local Government, in the case of assistance granted from the local government economic assistance fund or the local government economic development fund as allocated in KRS 42.4592(1)(a) and (b), or to the Cabinet for Economic Development and the Kentucky Economic Development Finance Authority, in the case of assistance granted from the local government economic development fund, within eighteen (18) months after the end of the fiscal year.

➔Section 4. KRS 424.190 is amended to read as follows:

- (1) If a statute gives discretion to a public officer or agency or governmental body as to the method of making an advertisement required by the statute, and if a statute provides that an advertisement may be made either by posting or by newspaper publication, the advertisement shall be made by newspaper publication in accordance with the provisions of this chapter, except as provided in subsection (2) of this section.
- (2) Any city may, when the cost of the newspaper publication exceeds the cost of postage, supplies, and reproduction for the alternative method of publication, in lieu of newspaper publication of advertisement, substitute delivery of a copy of the advertisement by first class mail to each residence within the publication area. Any city electing to use the alternative publication methods authorized by this section shall forward *an electronic copy* ~~three (3) copies~~ of its audit report or *an electronic* ~~one (1)~~ copy of its financial statement, whichever is applicable, to the Department for Local Government in accordance with KRS 91A.040 and 424.220.

Signed by Governor March 9, 2018.

CHAPTER 11

(HB 4)

AN ACT relating to the privileging of peer review activities in health care.

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

➔Section 1. KRS 311.377 is amended to read as follows:

- (1) Any person who applies for, or is granted staff privileges after June 17, 1978, by any health services organization subject to licensing under the certificate of need and licensure provisions of KRS Chapter 216B, shall be deemed to have waived as a condition of such application or grant, any claim for damages for any good faith action taken by any person who is a member, participant in or employee of or who furnishes information, professional counsel, or services to any committee, board, commission, or other entity which is duly constituted by any licensed hospital, licensed hospice, licensed home health agency, health insurer, health maintenance organization, health services corporation, organized medical staff, medical society, or association affiliated with the American Medical Association, American Podiatry Association, American Dental

Association, American Osteopathic Association, or the American Hospital Association, or a medical care foundation affiliated with such a medical society or association, or governmental or quasigovernmental agency when ~~the[such]~~ entity is performing the designated function of review of credentials or retrospective review and evaluation of the competency of professional acts or conduct of other health care personnel. This subsection shall have equal application to, and the waiver be effective for, those persons who, subsequent to June 17, 1978, continue to exercise staff privileges previously granted by any such health services organization.

- (2) At all times in performing a designated professional review function, the proceedings, records, opinions, conclusions, and recommendations of any committee, board, commission, medical staff, professional standards review organization, or other entity, as referred to in subsection (1) of this section shall be confidential and privileged and shall not be subject to discovery, subpoena, or introduction into evidence, in any civil action in any court, ***including but not limited to medical malpractice actions, actions arising out of review of credentials or retrospective review and evaluation as referred to in subsection (1) of this section, and actions by an applicant for or grantee of staff privileges as referred to in subsection (1) of this section,*** or in any administrative proceeding before any board, body, or committee, whether federal, state, county, or city, except as specifically provided with regard to the board in KRS 311.605(2). ***The confidentiality and privilege protections of this subsection shall only be available to a person or entity that attests to participating in a patient safety and quality improvement initiative, including the program established by the Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. secs. 299b-21 to 299b-26.*** This subsection shall not apply to any proceedings or matters governed exclusively by federal law or federal regulation.
- (3) Nothing in subsection (2) of this section shall be construed to restrict or limit the right to discover or use in any civil action or other administrative proceeding any evidence, document, or record which is subject to discovery independently of the proceedings of the entity to which subsection (1) of this section refers.
- (4) No person who presents or offers evidence in proceedings described in subsection (2) of this section or who is a member of any entity before which such evidence is presented or offered may refuse to testify in discovery or upon a trial of any civil action as to any evidence, document, or record described in subsection (3) of this section or as to any information within his own knowledge, except as provided in subsection (5) of this section.
- (5) No person shall be permitted or compelled to testify concerning his testimony or the testimony of others except that of a defendant given in any proceeding referred to in subsection (2) of this section, or as to any of his opinions formed as a result of ~~the[such]~~ proceeding.
- (6) In any action in which the denial, termination, or restriction of staff membership or privileges by any health care facility shall be in issue, agents, employees, or other representatives of a health care entity may with the consent of ~~the[such]~~ health care entity testify concerning any evidence presented in proceedings related to the facility's denial of ~~such~~ staff membership or privileges.
- (7) Nothing in this section shall be construed to restrict or prevent the presentation of testimony, records, findings, recommendations, evaluations, opinions, or other actions of any entity described in subsection (1) of this section, in any statutory or administrative proceeding related to the functions or duties of ~~the[such]~~ entity.
- (8) In addition to the foregoing, the immunity provisions of the federal Health Care Quality Improvement Act of 1986, P.L. 99-660, shall be effective arising under state laws as of July 15, 1988.

Signed by Governor March 9, 2018.

CHAPTER 12

(HB 259)

AN ACT relating to pari-mutuel tax.

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

➔Section 1. KRS 138.510 is amended to read as follows:

- (1) (a) Except as provided in paragraph (d) of this subsection and subsection (3) of this section, an excise tax is imposed on all tracks conducting pari-mutuel wagering on live racing under the jurisdiction of the commission as follows:
1. For each track with a daily average live handle of one million two hundred thousand dollars (\$1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered on live races at the track during the fiscal year; and
 2. For each track with a daily average live handle under one million two hundred thousand dollars (\$1,200,000), the tax shall be one and one-half percent (1.5%) of all money wagered on live races at the track during the fiscal year.
- (b) Beginning on April 1, 2014, an excise tax is imposed on all tracks conducting pari-mutuel wagering on historical horse races under the jurisdiction of the commission at a rate of one and one-half percent (1.5%) of all money wagered on historical horse races at the track during the fiscal year.
- (c) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection and deposited as follows:
1. An amount equal to three-quarters of one percent (0.75%) of all money wagered on live races and historical horse races at the track for Thoroughbred racing shall be deposited in the Thoroughbred development fund established in KRS 230.400;
 2. An amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for harness racing shall be deposited in the Kentucky standardbred development fund established in KRS 230.770;
 3. An amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for quarter horse, paint horse, Appaloosa, and Arabian horse racing shall be deposited in the Kentucky quarter horse, paint horse, Appaloosa, and Arabian development fund established by KRS 230.445;
 4. An amount equal to two-tenths of one percent (0.2%) of all money wagered on live races and historical horse races at the track shall be deposited in the equine industry program trust and revolving fund established by KRS 230.550 to support the Equine Industry Program at the University of Louisville, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed six hundred fifty thousand dollars (\$650,000);
 5.
 - a. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races at the track shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars (\$320,000).
 - b. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subparagraph shall not replace other funds for capital purposes or operation of equine programs at state universities.
 - c. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds.
 - d. The Kentucky Council on Postsecondary Education may promulgate administrative regulations to establish procedures for administering the program and criteria for evaluating and awarding grants; and
 6. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3), except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars (\$320,000).
- (d) The excise tax imposed by paragraph (a) of this subsection shall not apply to pari-mutuel wagering on live harness racing at a county fair.

- (e) The excise tax imposed by paragraph (a) of this subsection, and the distributions provided for in paragraph (c) of this subsection, shall apply to money wagered on historical horse races beginning September 1, 2011, through March 31, 2014, and historical horse races shall be considered live racing for purposes of determining the daily average live handle. Beginning April 1, 2014, the tax imposed by paragraph (b) of this subsection shall apply to money wagered on historical horse races.
- (2) (a) Except as provided in paragraph (c) of this subsection, an excise tax is imposed on:
1. All tracks conducting telephone account wagering;
 2. All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the commission; and
 3. All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.
- (b) The tax shall be three percent (3%) of all money wagered on races as provided in paragraph (a) of this subsection during the fiscal year.
- (c) A noncontiguous track facility approved by the commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars (\$250,000) or less. The amount of money exempted under this paragraph shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding.
- (d) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection as follows:
1. An amount equal to two percent (2%) of the amount wagered shall be deposited as follows:
 - a. In the Thoroughbred development fund established in KRS 230.400 if the host track is conducting a Thoroughbred race meeting or the interstate wagering is conducted on a Thoroughbred race meeting;
 - b. In the Kentucky standardbred development fund established in KRS 230.770, if the host track is conducting a harness race meeting or the interstate wagering is conducted on a harness race meeting; or
 - c. In the Kentucky quarter horse, paint horse, Appaloosa, and Arabian development fund established by KRS 230.445, if the host track is conducting a quarter horse, paint horse, Appaloosa, or Arabian horse race meeting or the interstate wagering is conducted on a quarter horse, paint horse, Appaloosa, or Arabian horse race meeting;
 2. An amount equal to one-twentieth of one percent (0.05%) of the amount wagered shall be allocated to the equine industry program trust and revolving fund established by KRS 230.550 to be used to support the Equine Industry Program at the University of Louisville;
 3. An amount equal to one-tenth of one percent (0.1%) of the amount wagered shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, as detailed in subsection (1)(c)5. of this section; and
 4. An amount equal to one-tenth of one percent (0.1%) of the amount wagered shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3).
- (3) ~~{(a) The provisions of this subsection shall apply retroactively to January 1, 2015, and shall expire on December 31, 2017.~~
- ~~(b) If a host track in this state is the location for the conduct of a two (2) day international horse racing event that distributes in excess of a total of twenty million dollars (\$20,000,000) in purses and awards:~~
- ~~(a) {1.} The excise tax imposed by subsection (1)(a) of this section shall not apply to money wagered at the track on live races conducted at the track during the two (2) day international horse racing event; and~~
- ~~(b) {2.} Amounts wagered at the track on live races conducted at the track during the two (2) day international horse racing event shall not be included in calculating the daily average live handle for purposes of subsection (1) of this section.~~

- (4) The taxes imposed by this section shall be paid, collected, and administered as provided in KRS 138.530.

Signed by Governor March 12, 2018.

CHAPTER 13

(HB 5)

AN ACT regarding guardianship and conservatorship of partially disabled or disabled adults.

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

➔Section 1. KRS 210.290 is amended to read as follows:

- (1) The Cabinet for Health and Family Services may be appointed and act as executor, administrator, guardian, limited guardian, conservator, or limited conservator as provided in this section. In this capacity the cabinet may *act as a fiduciary and* transact business in the same manner as any individual and for *fiduciary purposes*~~[this purpose]~~ may sue and be sued in any of the courts of the state. Bond shall not be required of the cabinet.
- (2)
 - (a) Whenever a resident of the state is adjudged partially disabled or disabled and no other suitable person or entity is available and willing to act as limited guardian, guardian, limited conservator, or conservator, the cabinet *may be appointed as the resident's limited guardian, guardian, limited conservator, or conservator. As used in this paragraph, "resident of the state" means an individual who has a permanent, full-time residence in Kentucky prior to the filing of a petition for or appointment of a limited guardian, guardian, limited conservator, or conservator for at least the previous six (6) months that is not a hospital, treatment facility, correctional facility, or long-term care facility, and who is a citizen or permanent resident of the United States.*
 - (b) *Notwithstanding paragraph (a) of this subsection, except upon written order of the court in exceptional circumstances, the cabinet shall not be appointed as a limited guardian, guardian, limited conservator, or conservator of a partially disabled or disabled person when the person:*
 1. *Has been convicted of, pled guilty to, or entered an Alford plea for a sex crime as defined in KRS 17.500 or an offense that would classify the person as a violent offender under KRS 439.3401; or*
 2. *Is not alive or cannot be physically located.*
 - (c) *Before appointing the cabinet, consideration shall be given to the average caseload of each field social worker.*
 - (d) *The cabinet, acting through its designated officer, may apply to the District Court of the county in which the adjudication is made for appointment as limited guardian, guardian, limited conservator, or conservator for a~~such~~ partially disabled or disabled person who meets the requirements of this subsection.*
- (3) *When the cabinet is appointed as a limited guardian, guardian, limited conservator, or conservator of a partially disabled or disabled person, the cabinet shall not:*
 - (a) *Assume physical custody of the person;*
 - (b) *Be assigned as the person's caregiver or custodian; or*
 - (c) *Become personally liable for the person's expenses or placement, or to third parties for the person's actions. However, the cabinet shall procure resources and services for which the person is eligible when necessary and available.*
- ~~(4)~~~~(3)~~ (a) *Except as provided in paragraph (b) of this subsection, upon the death of a person for whom the cabinet has been appointed guardian or conservator, or upon the death of a person who has been committed to the cabinet leaving an estate and having no relatives at the time residing within the state, the cabinet may apply for appointment as administrator and upon appointment shall close the administration of the estate.*

(b) *If a person for whom the cabinet has been appointed guardian or conservator dies with less than ten thousand dollars (\$10,000) of personal property or money, the cabinet shall not be required to apply for appointment as administrator. However, prior to the release of funds to the person's estate, the cabinet shall ensure all outstanding bills related to living expenses, reasonable funeral expenses when not prepaid, and estate recovery are paid.*

(5)~~(4)~~ The cabinet may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion. *In addition, the cabinet may establish or place funds held as fiduciary in a trust.*

(6)~~(5)~~ The cabinet shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs, and other expenses incurred in the administration of estates. Claims of the cabinet against the estates shall be considered in the same manner as any other claim.

(7)~~(6)~~ An officer designated by the secretary may act as legal counsel for any patient in a state mental hospital or institution against whom a suit of any nature has been filed, without being appointed as guardian, limited guardian, conservator, or limited conservator.

(8)~~(7)~~ Patients hospitalized pursuant to KRS Chapters 202A and 202B who are not adjudged disabled or partially disabled may authorize the Cabinet for Health and Family Services to handle personal funds received by them at the hospital in the same manner as prescribed in subsections (5)~~(4)~~ and (6)~~(5)~~ of this section.

➔Section 2. KRS 387.510 is amended to read as follows:

As used in KRS 387.500 to 387.770 and 387.990:

- (1) "Conservator" means an individual, agency, or corporation appointed by the court to manage the financial resources of a disabled person.
- (2) "Limited conservator" means an individual, agency, or corporation appointed by the court to assist in managing the financial resources of a partially disabled person and whose powers and duties have been specifically enumerated by court order.
- (3) "Guardian" means any individual, agency, or corporation appointed by the court to *manage the personal affairs*~~have full care, custody, and control~~ of a disabled person~~and to manage his financial resources~~.
- (4) "Limited guardian" means *an individual, agency, or corporation appointed by the court to assist in managing the personal affairs of a partially disabled person*~~a guardian who possesses fewer than all of the legal powers and duties of a full guardian,~~ and whose powers and duties have been specifically enumerated by court order.
- (5) "Standby" guardian or conservator means a person or entity designated by the court to assume the powers and duties assigned to a limited guardian, guardian, limited conservator, or conservator upon his death, resignation, removal, or incapacity.
- (6) "Testamentary" guardian or conservator means an individual, agency, or corporation nominated in the will of a limited guardian, guardian, limited conservator, or conservator to succeed the testator in that capacity upon his death.
- (7) "Developmental disability" means a severe, chronic disability of a person which:
 - (a) Is attributable to a mental or physical impairment or combination of mental and physical impairments, including pervasive developmental disorder;
 - (b) Is manifested before the person attains age twenty-two (22);
 - (c) Is likely to continue indefinitely;
 - (d) Results in substantial functional limitations in three (3) or more of the following areas of major life activity:
 1. Self-care;
 2. Receptive and expressive language;
 3. Learning;
 4. Mobility;

5. Self-direction;
 6. Capacity for independent living; and
 7. Economic self-sufficiency; and
- (e) Reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.
- (8) "Disabled" means a legal **disability**, not a medical disability, and is measured by functional inabilities. It refers to any person ~~seventeen (17)~~~~fourteen (14)~~ years of age or older who is:
- (a) Unable to make informed decisions with respect to his personal affairs to such an extent that he lacks the capacity to provide for his physical health and safety, including but not limited to health care, food, shelter, clothing, or personal hygiene; or
 - (b) Unable to make informed decisions with respect to his financial resources to such an extent that he lacks the capacity to manage his property effectively by those actions necessary to obtain, administer, and dispose of both real and personal property.

Such inability shall be evidenced by acts or occurrences within six (6) months prior to the filing of the petition for guardianship or conservatorship and shall not be evidenced solely by isolated instances of negligence, improvidence, or other behavior.

- (9) "Partially disabled" refers to an individual who lacks the capacity to manage some of his personal affairs and/or financial resources as provided in subsection (8) of this section, but who cannot be found to be fully disabled as provided therein.
- (10) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors.
- (11) "Interdisciplinary evaluation report" means a report of an evaluation of a respondent performed pursuant to the provisions of KRS 387.540 to determine whether he is partially disabled or disabled as defined herein.
- (12) "Interested person or entity" means an adult relative or friend of the respondent or ward, an official or representative of a public or private agency, corporation, or association concerned with that person's welfare, or any other person found suitable by the court.
- (13) "Petitioner" means a person who institutes a proceeding under KRS 387.530.
- (14) "Respondent" means an individual alleged to be a partially disabled or disabled person.
- (15) "Ward" means a person for whom a limited guardian, guardian, limited conservator, or conservator has been appointed.
- (16) "Committee" means a person appointed by the court prior to July 1, 1982, to have full care, custody, and control of a disabled person and his estate.
- (17) ***"Personal affairs" means decisions regarding the person of an adult, including but not limited to health care, food, shelter, clothing, or personal hygiene.***

➔Section 3. KRS 387.540 is amended to read as follows:

- (1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report may be filed as a single and joint report of the interdisciplinary evaluation team, or it may otherwise be constituted by the separate reports filed by each individual of the team. If the court and all parties to the proceeding and their attorneys agree to the admissibility of the report or reports, the report or reports shall be admitted into evidence and shall be considered by the ***court or the jury if one is impealed***. The report shall be compiled by at least three (3) individuals, including a physician,~~or~~ an advanced practice registered nurse, ***or a physician assistant***, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a person licensed or certified as a social worker or an employee of the Cabinet for Health and Family Services who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall, when possible, be chosen from among employees of the

Cabinet for Health and Family Services residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

- (2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.
- (3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to an intellectual disability, at least one (1) person participating in the compilation of the evaluation report shall be a qualified professional in the area of intellectual disabilities as defined in KRS 202B.010(12).
- (4) The interdisciplinary evaluation report shall contain:
 - (a) A description of the nature and extent of the respondent's disabilities, if any;
 - (b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;
 - (c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;
 - (d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;
 - (e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;
 - (f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;
 - (g) A determination whether alternatives to guardianship or conservatorship are available;
 - (h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;
 - (i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;
 - (j) An opinion whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of harm;
 - (k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and
 - (l) Any dissenting opinions or other comments by the evaluators.
- (5) The evaluation report may be compiled by a community center for mental health or individuals with an intellectual disability, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.
- (6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employee of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.
- (7) Except as provided in subsection (6) of this section, the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least ten (10) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.
- (8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employee of a state agency for an evaluation performed within the course

of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employee of a community center for mental health or individuals with an intellectual disability or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence shall be admissible to prove the services rendered but not to prove their value.

- (9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.
- (10) The respondent may secure an independent evaluation. If the respondent is unable to pay for the evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

➔Section 4. KRS 387.570 is amended to read as follows:

- (1) At a hearing convened pursuant to KRS 387.500 to 387.770 for the purpose of determining the disability of a respondent, the respondent shall ~~have a jury trial and shall~~ have the right to present evidence and to confront and cross-examine all witnesses.
- (2) The hearing may be closed to the public on request of the respondent or his counsel.
- (3) The respondent shall ***have the right to*** be present at the hearing, and his presence may be waived only ***by his failure to appear at the hearing or*** upon a determination of the court that his attendance would subject him to serious risk of harm. Such determination shall be evidence only of the respondent's inability to attend the hearing and shall not be considered in determining the need for guardianship or conservatorship.
- (4) The court may remove itself to the place of residence of the respondent to conduct the hearing in the presence of the respondent.
- (5) The burden of proof shall be on the Commonwealth to prove the disability or partial disability of the respondent by clear and convincing evidence.
- (6) The respondent will not be determined partially disabled or disabled unless at least one (1) of the persons who participated in the interdisciplinary evaluation required by KRS 387.540 testifies in person at the hearing. This section shall not be interpreted to preclude the respondent from requiring the testimony of more than one (1) person participating in the preparation of the evaluation report.
- (7) ***The hearing shall be a jury trial, unless:***
 - (a) ***The respondent if present, counsel for the respondent, and the attorney for the Commonwealth agree to a bench trial;***
 - (b) ***No objection to a bench trial is made by an interested person or entity; and***
 - (c) ***The interdisciplinary evaluation report prepared for the proceeding reflects a unanimous consensus of the persons preparing it that the respondent is disabled or partially disabled, the court has reviewed the report, and the court finds no cause to require a jury trial.***

➔Section 5. KRS 387.580 is amended to read as follows:

- (1) At a hearing convened under KRS 387.500 to 387.770 for a determination of partial disability or disability, the ***court, or the jury if one is impaneled,*** shall:
 - (a) Inquire into the nature and extent of the general intellectual functioning of the respondent;
 - (b) Inquire into the respondent's capacity to make informed decisions concerning his personal affairs and financial resources;
 - (c) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his financial resources; and
 - (d) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his personal affairs.
- (2) If the respondent is found not to be disabled or partially disabled, the petition shall be dismissed.
- (3) If the respondent is found to be disabled or partially disabled, the court shall, at the same hearing, without a jury, determine:
 - (a) The type of guardian, ~~for~~ conservator, ***or guardian and conservator*** to be appointed;

- (b) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;
- (c) Whether the respondent retains the right to vote;
- (d) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled;
- (e) The individual or entity to be appointed by the court as limited guardian, guardian, limited conservator, or conservator;
- (f) The individual or entity, if any, to be appointed as standby guardian or conservator; and
- (g) The duration of the term of guardianship or conservatorship.

➔Section 6. KRS 387.590 is amended to read as follows:

- (1) (a) If the respondent is found partially disabled in managing his personal affairs, but not partially disabled or disabled in managing his financial resources, a limited guardian shall be appointed.
- (b)~~[(2)]~~ If the respondent is found partially disabled in managing his financial resources, but not partially disabled or disabled in managing his personal affairs, a limited conservator shall be appointed.
- (c)~~[(3)]~~ If the respondent is found partially disabled in managing both his personal affairs and financial resources, a limited guardian **and a limited conservator** shall be appointed, ~~unless the court considers it in the best interest of the ward to appoint both a limited guardian and a limited conservator~~. **The limited guardian and the limited conservator may be the same individual, agency, or corporation.**
- (2) (a)~~[(4)]~~ If the respondent is found disabled in managing his **personal affairs**~~[financial resources]~~, but not partially disabled or disabled in managing his **financial resources**~~[personal affairs]~~, a **guardian**~~[conservator]~~ shall be appointed.
- (b)~~[(5)]~~ If the respondent is found disabled in managing ~~both~~ his **financial resources, but not partially disabled or disabled in managing his** personal affairs~~[and financial resources]~~, a **conservator**~~[guardian]~~ shall be appointed, ~~unless the court considers it in the best interest of the ward to appoint both a limited guardian and a conservator~~.
- (c) **If the respondent is found disabled in managing both his personal affairs and his financial resources, a guardian and a conservator shall be appointed. The guardian and the conservator may be the same individual, agency, or corporation.**
- (3)~~[(6)]~~ The order of appointment of a limited guardian, guardian, limited conservator, or conservator shall specify:
 - (a) The type of guardianship, ~~for~~ conservatorship, **or guardianship and conservatorship** to which the ward is subject;
 - (b) The name and address of the limited guardian, guardian, limited conservator, or conservator;
 - (c) The name and address of the standby guardian or conservator, if a standby guardian or conservator is designated;
 - (d) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;
 - (e) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled; and
 - (f) The duration of the term of guardianship or conservatorship.
- (4)~~[(7)]~~ A limited guardian or limited conservator shall not be appointed for a term greater than five (5) years and may be appointed for a lesser period. A guardian or conservator may be appointed for a period of unlimited duration.
- (5)~~[(8)]~~ The judgment of partial disability or disability and the order of appointment shall be filed in the District Court. The judgment shall be indexed by the county clerk in the book in which notices of actions and encumbrances are indexed. Unless such judgment is filed and indexed, it shall not constitute notice to any subsequent bona fide purchaser for value, mortgagee, or encumbrancer.

- ~~(6)(9)~~ If the respondent is determined to be disabled or partially disabled but no limited guardian, guardian, limited conservator, or conservator is appointed at the hearing, the determination shall have no legal effect.
- ~~(7)(10)~~ The rights of which a ward is legally deprived upon a determination of disability in managing his personal affairs and financial resources include but are not limited to the right to dispose of property, execute instruments, enter into contractual relationships, determine his living arrangements, consent to medical procedures, and obtain a motor vehicle operator's license. A ward shall only be deprived of the right to vote if the court separately and specifically makes a finding on the record as established in KRS 387.580(3)(c).
- ~~(8)(11)~~ A partially disabled or disabled person for whom a limited guardian, limited conservator, or conservator has been appointed retains all legal and civil rights except those which have by court order been designated as legal disabilities or which have been specifically granted to the limited guardian, limited conservator, or conservator. A person who is partially disabled may be subject to some but not all of the disabilities specified in subsection (10) of this section.

➔Section 7. KRS 387.610 is amended to read as follows:

Prior to the expiration of a term of guardianship or conservatorship, the limited guardian, guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for a renewal of his appointment for a period not to exceed five (5) years. The petition shall be accompanied by verified affidavits of a physician, ***an advanced practice registered nurse or physician assistant working within his or her scope of practice***, or a psychologist licensed or certified under the provisions of KRS Chapter 319, or a person licensed or certified as a social worker or an employee of the Cabinet for Health and Family Services who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c) supporting the need for the continuation of the guardianship or conservatorship.

➔Section 8. KRS 387.660 is amended to read as follows:

A guardian of a disabled person shall have the following powers and duties, except as modified by order of the court:

- (1) To ~~take custody of the ward and to~~ establish ***the ward's*** ~~his~~ place of abode within the state, except that, if at any time a guardian places a ward in a licensed residential facility for developmentally disabled persons, the guardian shall, within thirty (30) days of such placement, file with the court notice of the placement, stating with specificity the reasons for such placement, and an interdisciplinary evaluation report detailing the social, psychological, medical or other considerations on which such placement is predicated, a description of the treatment or habilitation programs which will benefit the ward as a result of such placement, and a determination that such placement will provide appropriate treatment in the least restrictive available treatment and residential program. For purposes of this subsection, the interdisciplinary evaluation report may be one performed within two (2) months prior to the placement for purposes of determining whether such placement is necessary and appropriate, or may be an evaluation and assessment provided by the residential facility immediately after placement. Notice to the court shall not be required where the ward is transferred from one licensed residential facility to another.
- (2) To make provision for the ward's care, comfort, and maintenance and arrange for such educational, social, vocational, and rehabilitation services as are appropriate and as will assist the ward in the development of maximum self-reliance and independence.
- (3) To give any necessary consent or approval to enable the ward to receive medical or other professional care, counsel, treatment or service, except that a guardian may not consent on behalf of a ward to an abortion, sterilization, psychosurgery, removal of a bodily organ, or amputation of a limb unless the procedure is first approved by order of the court or is necessary, in an emergency situation, to preserve the life or prevent serious impairment of the physical health of the ward.
- (4) To act with respect to the ward in a manner which limits the deprivation of civil rights and restricts his personal freedom only to the extent necessary to provide needed care and services to him.
- (5) To expend sums from the financial resources of the ward reasonable and necessary to carry out the powers and duties assigned to him by the court ~~and, unless a separate conservator has been appointed, to manage the financial resources of this ward~~.

If a separate limited conservator or conservator has been appointed for the ward, the expenditure of funds by the limited guardian shall be consistent with the duties assigned to and procedures and policies established by such limited conservator or conservator. Conflicts arising between a limited guardian and a limited conservator or conservator regarding the expenditure of funds which are unable to be otherwise resolved shall be submitted to the court for resolution.

➔Section 9. KRS 387.670 is amended to read as follows:

- (1) A guardian shall file with the court at least annually a verified report stating:
 - (a) The ward's current mental, physical, and social condition;
 - (b) The address of every residence of the ward during the reporting period and length of stay at each residence;
 - (c) A summary of the medical, social, educational, vocational, and other professional services received by the ward during the reporting period;
 - (d) An outline of the guardian's visits with and activities on behalf of the ward;
 - (e) A recommendation as to the need for continued guardianship;
 - (f) A statement signed by the standby guardian, if one has been appointed, that the standby guardian continues to be willing to serve in the event of the death, resignation, removal, or incapacity of the guardian; and
 - (g) Other information requested by the court or useful in the opinion of the guardian.
- (2) For the purpose of filing the report required by subsection (1) of this section, the guardian shall be given access to records pertaining to the ward held by public or private agencies which contain information necessary for the guardian to perform his duties.
- (3) The court shall review the report required in subsection (1) of this section and take whatever action it considers necessary to enhance the well-being of the ward.

~~{(4) In addition to the requirements of this section, a guardian shall comply with the reporting requirements of KRS 387.710 unless a separate conservator has been appointed.}~~

➔Section 10. KRS 387.680 is amended to read as follows:

It shall be the general duty of the limited conservator or conservator to carry out, diligently and in good faith, the specific duties and powers assigned by the court and to:

- (1) Manage or assist in managing those financial resources placed under his supervision and/or control as would a prudent person managing his own resources, ***including establishing or placing resources in a trust***, and, if a conservator has special skills or is named conservator on the basis of representations of special skills or expertise, he shall use those skills; and
- (2) Encourage the ward to:
 - (a) Participate, to the maximum extent of his abilities, in all decisions which affect him;
 - (b) Act on his own behalf on all matters in which he is able to do so; and
 - (c) Develop or regain, to the maximum extent possible, his capacity to manage his financial resources and, if impaired, his capacity to meet the essential requirements for his physical health or safety.

➔Section 11. KRS 387.700 is amended to read as follows:

- (1) A conservator has all of the powers conferred herein and any additional powers conferred by law on trustees in this state. The conservator may take possession of the ward's real and personal property, and of all rents, incomes, and benefits therefrom, whether accruing before or after his appointment, and of the proceeds arising from the sale, mortgage, lease or exchange thereof. Subject to such possession the title of all such estate and to the increment and proceeds thereof shall be to the ward and not to the conservator. It is the duty of the conservator to protect and preserve the estate, to retain, sell and invest it as hereinafter provided, prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of the estate's assets, to account for it faithfully, to perform all other duties required of him by law, and, at the termination of the conservatorship, to deliver the assets of the ward to the persons lawfully entitled thereto.
- (2) The conservator shall apply the money and property for the payments of debts, taxes, claims, charges and expenses of the conservatorship and for the support, care, maintenance and education of the ward or his dependents.
- (3) Any sale of realty of a ward shall be as provided in KRS Chapter 389A.

- (4) Any lease of mineral rights, oil and gas rights, or sale of timber owned by a ward, or consolidation agreement, as defined by KRS 353.220, to be made on behalf of a ward by a conservator~~[-or guardian]~~ shall require the authorization and order of the District Court of the county where the conservator~~[-or guardian]~~ has qualified. Such order may be given only pursuant to written motion which contains the grounds for the motion and a description of the lease or agreement involved.

➔Section 12. KRS 387.710 is amended to read as follows:

- (1) Within sixty (60) days of appointment, the limited conservator or conservator shall file with the court a verified inventory of all the property of the ward which has come to his possession or knowledge, including a statement of all encumbrances, liens, and other secured claims on any item, any claims against the estate of the ward, and any cause of action accruing to the ward. The limited conservator or conservator shall provide a copy thereof to the ward if he has sufficient mental capacity to understand it.
- (2) (a) A limited conservator or conservator shall file with the court a verified report and financial account biennially within one hundred twenty (120) days after the anniversary date of his appointment. The report shall contain:
 1. The present personal status of the ward whose estate is managed by the conservator;
 2. The conservator's plan for preserving and maintaining the estate of which he has control or supervision;
 3. The need for continuation or cessation of the conservatorship; and
 4. The need for any alteration in the powers of the conservatorship.
- (b) The biennial report shall specify the amount and type of real and personal property received by the conservator and remaining in his control or invested by him, the nature of such investment, and expenditures made during the preceding year. Upon request of the court, the conservator shall produce for examination any information or documentation which the court may consider relevant to the accounting of the financial and property transactions of the estate.
- (c) If the ward has no real property and possesses personal property of two thousand five hundred dollars (\$2,500) or less for any year during the biennial report, the ~~guardian, conservator,~~ or limited conservator may file an informal biennial financial report attesting to the identity of the ward's financial account and its current balance. If the balance does not exceed two thousand five hundred dollars (\$2,500) for any year of the biennial report, the ~~guardian, conservator,~~ or limited conservator shall not be required to render to the court a detailed accounting of the expenditures from the fund, unless the court, on its own motion or that of any interested party or individual, deems it necessary to order the ~~guardian, conservator,~~ or limited conservator to provide a detailed biennial accounting, including the listing of all expenditures for that reporting period.~~[For guardians filing an informal biennial financial report, the provisions of subsection (2)(a)2. of this section shall not apply.]~~
- (3) Upon the resignation, removal, or death of a limited conservator or conservator, or on the termination of the conservatorship, the limited conservator or conservator, or his personal representative, shall forthwith submit a final report and account to the court and to the former ward and to the successor limited conservator or conservator, or, if the ward is deceased, to his personal representative, and shall pay over the trust estate to the person entitled thereto. Upon approval of the report and account, the limited conservator or conservator shall be discharged and his surety, if any, released.

Signed by Governor March 13, 2018.

CHAPTER 14

(HB 64)

AN ACT relating to traumatic brain injury treatment for veterans.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act:

- (1) *"Eligible patient" means a veteran who meets the requirements of Section 3 of this Act;*
- (2) *"Health care provider" means a licensed physician, a licensed advanced practice registered nurse, or a licensed physician assistant;*
- (3) *"Health facility" has the same meaning as in KRS 216B.015;*
- (4) *"Hyperbaric oxygen therapy" or "HBOT" means inhalation of one hundred percent (100%) oxygen in a total body chamber, where atmospheric pressure is increased and controlled, applicable to the prevention, treatment, or cure of a disease or condition of human beings;*
- (5) *"Traumatic brain injury" has the same meaning as in KRS 211.470;*
- (6) *"Veteran" has the same meaning as in KRS 40.010; and*
- (7) *"Written informed consent" means a written document that meets the requirements of Section 4 of this Act.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *A health care provider or health facility shall make hyperbaric oxygen therapy available to an eligible patient who has requested it pursuant to Sections 1 to 7 of this Act.*
- (2) *The health care provider or health facility may:*
 - (a) *Provide hyperbaric oxygen therapy without receiving compensation; or*
 - (b) *Require an eligible patient to pay the costs of or the costs associated with hyperbaric oxygen therapy.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

A veteran shall be an eligible patient for hyperbaric oxygen therapy if he or she has:

- (1) *A diagnosis of traumatic brain injury that is attested to by the patient's treating health care provider;*
- (2) *A prescription for hyperbaric oxygen therapy written by his or her treating health care provider; and*
- (3) *Given written informed consent for the use of HBOT in accordance with Section 4 of this Act.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

- (1) *A veteran or a veteran's legal guardian shall provide written informed consent for treatment with hyperbaric oxygen therapy in order to receive HBOT to treat traumatic brain injury.*
- (2) *At a minimum, the written informed consent shall include:*
 - (a) *An explanation of the currently approved products and treatments for the traumatic brain injury from which the veteran suffers;*
 - (b) *A description of the potentially best and worst outcomes of using hyperbaric oxygen therapy and a realistic description of the most likely outcome;*
 - (c) *A statement that the veteran's health plan or third-party administrator and provider shall not be obligated to pay for any care or treatments consequent to the use of hyperbaric oxygen therapy unless they are specifically required to do so by law or contract; and*
 - (d) *A statement that the veteran understands that the patient shall be liable for all expenses related to the use of hyperbaric oxygen therapy.*
- (3) *The description of potential outcomes required under subsection (2)(b) of this section shall:*
 - (a) *Include the possibility that new, unanticipated, different, or worse symptoms may result and that the proposed treatment may hasten death; and*
 - (b) *Be based on the treating health care provider's knowledge of the proposed treatment in conjunction with an awareness of the veteran's condition.*
- (4) *The written informed consent shall be:*
 - (a) *Signed by:*
 1. *The veteran; or*

2. *A legal guardian, if a guardian has been appointed for the veteran; and*

(b) Attested to by the veteran's treating health care provider and a witness.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

(1) *Sections 1 to 7 of this Act shall not:*

(a) Expand the coverage required of an insurer;

(b) Affect the requirements for insurance coverage of routine patient costs for veterans involved in hyperbaric oxygen therapy;

(c) Require a health plan, third-party administrator, or governmental agency to pay costs associated with the use of hyperbaric oxygen therapy; or

(d) Require a hospital or health facility to provide new or additional services.

(2) *A health plan, third-party administrator, or governmental agency may provide coverage for the cost of hyperbaric oxygen therapy under Sections 1 to 7 of this Act.*

(3) *A hospital or health facility may approve the use of hyperbaric oxygen therapy in the hospital or health facility.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

(1) *A licensing board shall not revoke, fail to renew, suspend, or take any action against a licensed health care provider based solely on the health care provider's recommendations to an eligible patient regarding access to or treatment with hyperbaric oxygen therapy;*

(2) *The Cabinet for Health and Family Services shall not take action against a health care provider's Medicare or Medicaid certification based solely on the health care provider's recommendation that an eligible patient have access to hyperbaric oxygen therapy.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

(1) *An official, employee, or agent of the Commonwealth of Kentucky shall not block or attempt to block an eligible patient's access to hyperbaric oxygen therapy.*

(2) *Counseling, advice, or a recommendation consistent with medical standards of care from a licensed health care provider shall not be considered a violation of subsection (1) of this section.*

➔Section 8. This Act may be known as the Colonel Ron Ray Veterans Traumatic Brain Injury Treatment Act.

Signed by Governor March 13, 2018.

CHAPTER 15

(HB 74)

AN ACT relating to pawnbrokers.

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

➔Section 1. KRS 226.040 is amended to read as follows:

(1) Every pawnbroker shall keep a register of all loans and purchases of all articles *by the pawnbroker from the general public* ~~effected or made by him~~. The register shall:

(a) Be reported to an online, Internet-based transaction recording service accessible to law enforcement agencies;

(b) Show the dates and the amounts of all loans or purchases by the pawnbroker from the general public, and the names and:

1. A driver's license number;

2. *Another state or federally issued picture identification card number; or*
3. *If the identification specified in subparagraph 1. or 2. of this paragraph is not available, a Social Security number may be accepted;*

of all persons who have left any property *that has been pawned or sold*; ~~on deposit as collateral security, or as a delivery or sale. Opposite the names and dates shall be written in plain hand a full description of all property purchased or received on deposit as collateral security, the time when the loan falls due, the amount of purchase money, the amount loaned and the interest charged.~~

- (c) ~~{The register shall }~~At all times be *available*~~{open}~~ to the inspection of any *law enforcement* officer of this state when in the discharge of his *or her* official duty; ~~and~~;
- (d) *Contain a full description of all property purchased by the pawnbroker from the general public or received on deposit as collateral or security. When requested by law enforcement and pertaining to an investigation, a photograph of the merchandise shall be made available to law enforcement if the property is still in the possession of the pawnbroker. For purposes of this paragraph, "full description" includes but is not limited to:*
 1. *Make;*
 2. *Model;*
 3. *Color;*
 4. *Size;*
 5. *Manufacturer;*
 6. *Vintage; and*
 7. *Distinguishing marks or characteristics.*
- (2) *When secondhand merchandise is sold to a pawnbroker, the merchandise shall be held for a minimum of twelve (12) days before being resold.*
- (3) *Prior to the release of property to a representative of law enforcement, the law enforcement representative shall provide to the pawnbroker a case report or other documentation that the item has been reported as stolen.*

Signed by Governor March 13, 2018.

CHAPTER 16

(HB 136)

AN ACT relating to microbreweries.

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

➔Section 1. KRS 243.157 is amended to read as follows:

- (1) A microbrewery license shall authorize the licensee to perform the following functions:
 - (a) Engage in the business of a brewer under the terms and conditions of KRS 243.150, provided that production of malt beverages at the microbrewery shall not exceed fifty thousand (50,000) barrels in one (1) year;
 - (b) Serve on the premises complimentary samples of malt beverages produced by the microbrewery in amounts not to exceed sixteen (16) ounces per patron, provided the microbrewery is located in wet territory;
 - (c) Sell malt beverages produced on the premises of the microbrewery to licensed distributors;
 - (d) Sell malt beverages produced on the premises of the microbrewery for on- and off-premises purposes in accordance with subsection (3)(b) and (c) of this section, *pursuant to the following:*

1. *Without restriction on the amount of malt beverages sold by the drink for on-premises consumption; and*
 2. *With a restriction on the amount of malt beverages sold for off-premises consumption, in an aggregate amount not to exceed thirty-one (31) gallons per person per day that shall not include more than three (3) cases in case format; and*
- (e) Sell:
1. *Unlimited amounts of malt beverages by the drink; and*
 2. *Not more than one (1) case of packaged malt beverages;*
- ~~{malt beverages }produced on the premises of the microbrewery to consumers at fairs, festivals, and other similar types of events located in wet territory, in accordance with subsection (3)(b)2.{ and 3.} and{ subsection (3)}(c)2.{ and 3.} of this section.{ The cumulative amount of malt beverages purchased by a consumer by the drink and by the package from a microbrewery under this paragraph shall not exceed two hundred eighty eight (288) ounces per day.}~~
- (2) A microbrewery license shall not be deemed to be incompatible with any other license except for a distributor's license under the provisions of KRS 243.180.
- (3) In accordance with the provisions of this section, a microbrewery license holder may:
- (a) Hold retail drink and package licenses both on and off the premises of the microbrewery. The holder of a microbrewery license is exempt from the provisions of KRS 244.570 and 244.590 as applied to any retail licenses held by the microbrewery license holder, and from any other sections which would restrict the co-ownership of the microbrewery license and any retail licenses described in this section;
 - (b) Sell malt beverages produced on the premises of the microbrewery for on-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided:
 1. The microbrewery possesses a retail drink license for those premises; *and*
 2. ~~{The microbrewery has a written contract with a licensed distributor authorizing the distributor to purchase and distribute the microbrewery's malt beverages to any other retailer; and~~
 3. ~~—}The microbrewery *reports and pays all taxes required by subsection (5)(a) and (b) of this section to the Department of Revenue at the time and in the manner required by the Department of Revenue in accordance with its powers under KRS 131.130(3)*{ provides to the distributor a monthly report of the quantity of malt beverages produced at the microbrewery and sold at retail at the microbrewery under the provisions of its retail drink license. The report required under this subparagraph shall:~~
 - a. ~~Be provided to the distributor on or before the tenth day of the month next succeeding the month in which the malt beverages were produced and sold at the microbrewery; and~~
 - b. ~~Be provided on a form promulgated by the board by administrative regulation. The information provided on the form shall be reported to the Department of Revenue at the time and in the manner required by that department in accordance with its powers under KRS 131.130(3) and any administrative regulation promulgated thereunder.~~~~— Nothing in this subparagraph shall require a distributor to verify the accuracy of the information provided by the microbrewery in its report}; and~~
 - (c) Sell malt beverages produced on the premises of the microbrewery for off-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided that:
 1. The microbrewery possesses a retail package license for those premises; *and*
 2. ~~{The microbrewery has a written contract with a licensed distributor authorizing the distributor to purchase and distribute the microbrewery's malt beverages to any other retailer; and~~
 3. ~~—}The microbrewery *reports and pays all taxes required by subsection (5)(a) and (b) of this section to the Department of Revenue at the time and in the manner required by the Department of Revenue in accordance with its powers under KRS 131.130(3)*{ provides to the distributor a monthly report of the quantity of malt beverages produced at the microbrewery~~

~~under the provisions of its retail package license. The report required under this subparagraph shall:~~

- ~~a. Be provided to the distributor on or before the tenth day of the month next succeeding the month in which the malt beverages were produced and sold at the microbrewery; and~~
- ~~b. Be provided on a form promulgated by the board by administrative regulation. The information provided on the form shall be reported to the Department of Revenue at the time and in the manner required by that department in accordance with its powers under KRS 131.130(3) and any administrative regulation promulgated thereunder.~~

~~Nothing in this subparagraph shall require a distributor to verify the accuracy of the information provided by the microbrewery in its report; and~~

- ~~4. The amount of malt beverages purchased by a customer during a visit to the microbrewery's premises does not exceed two hundred eighty eight (288) ounces per customer per day.~~

- (4) The provisions of subsection (3)(b) and (c) of this section shall apply only to malt beverages that are produced by the microbrewery at its licensed premises and:

- (a) Offered for sale by the microbrewery at that same premises under the microbrewery's retail drink or package license; or
- (b) Offered for sale by the microbrewery at a fair, festival, or other similar type of event as authorized under subsection (1)(e) of this section.

All other malt beverages produced by the microbrewery which are offered for retail sale shall be sold and physically transferred to a licensed distributor in compliance with all other relevant provisions of KRS Chapters 241 to 244, and a licensed microbrewery shall not otherwise affect sales of malt beverages directly to retail customers except as provided in subsection (3)(b) and (c) of this section.

- (5) (a) A microbrewery selling malt beverages in accordance with subsection (3)(b) and (c) of this section shall ~~pay~~ ~~collect and provide the licensed distributor~~ all **wholesale sales** taxes due under KRS 243.884.~~{ The tax shall be computed at the rate of eleven percent (11%) of the wholesale value of the malt beverages sold by the microbrewery under the provisions of subsection (3)(b) and (c) of this section. }~~ For the purposes of this subsection, **"wholesale sales" means a sale of malt beverages made by a microbrewery** ~~{ "wholesale value" shall be determined in accordance with the contract required under subsection (3)(b){2-} and (c){2-} of this section, as applicable. }~~
- (b) ~~{The licensed distributor shall be responsible for remitting these amounts to the Commonwealth as provided in KRS 243.884(1). In accordance with KRS 243.886, the licensed distributor shall be allowed to deduct one percent (1%) of the tax remitted under this subsection, provided the amount due is not delinquent at the time of payment. Nothing in this subsection shall require the licensed distributor to verify the amount of taxes collected and provided by the microbrewery to be the true and accurate amount which is due according to KRS 243.884; nor shall the distributor be responsible for remittance of taxes due in the event the microbrewery fails to collect and provide the amounts owed under the provisions of this subsection. }~~
- ~~(c) A microbrewery shall pay the excise tax on malt beverages in accordance with KRS 243.720(3) and 243.730 and shall be entitled to the credit set forth in KRS 243.720(3)(b).~~
- (6) A microbrewery shall not be located in dry or moist territory.
- (7) An employee of a microbrewery may sample the products produced by that microbrewery for purposes of education, quality control, and product development.
- (8) This section does not exempt the holder of a microbrewery license from the provisions of KRS Chapters 241 to 244, nor from any rules of the board as established by administrative regulations, nor from regulation by the board, except as expressly stated in this section. The provisions of this section shall not be deemed inconsistent with the provisions of KRS 244.602.
- (9) Nothing in this section shall be construed to vitiate the policy of this Commonwealth, as set forth in KRS 244.167 and 244.602, supporting an orderly three (3) tier system for the production and sale of malt beverages.

➔Section 2. KRS 243.882 is amended to read as follows:

For the purposes of KRS 243.884 to 243.890:

- (1) *"Distributor" means a person required to be or who is a licensee authorized to do business pursuant to KRS 243.180;*
- (2) *"Microbrewery" means a person required to be or who is a licensee authorized to do business pursuant to Section 1 of this Act;*
- (3) "Wholesale sale" or "sale at wholesale" means:
 - (a) A sale made for the purpose of resale in the regular course of business of beer, wine, or distilled spirits, except as provided in KRS 243.884(3); *or*
 - (b) *A sale of malt beverages made by a microbrewery as authorized by Section 1 of this Act; and*
- ~~(4)(2) [A-]"Wholesaler" means~~ ~~is~~ a person required to be or who is a licensee authorized to do business pursuant to KRS 243.160 and 243.170.
- ~~(3) A "distributor" is a person required to be or who is a licensee authorized to do business pursuant to KRS 243.180.~~

➔Section 3. KRS 243.884 is amended to read as follows:

- (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits, ~~and upon~~ all distributors of beer, *and all microbreweries selling malt beverages under Section 1 of this Act.*
- (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent (11%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (3) of this section. *For the purposes of this section, the gross receipts of a microbrewery making "wholesale sales" shall be calculated by determining the dollar value amount that the microbrewer would have collected had it conveyed to a distributor the same volume sold to a consumer as allowed under subsection (3)(b) and (c) of Section 1 of this Act.*
- (c) On and after July 1, 2015, the following rates shall apply:
 - 1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at wholesale; and
 - 2. For wine and beer:
 - a. Ten and three-quarters of one percent (10.75%) for wholesale sales or sales at wholesale made on or after July 1, 2015, and before June 1, 2016;
 - b. Ten and one-half of one percent (10.5%) for wholesale sales or sales at wholesale made on or after June 1, 2016, and before June 1, 2017;
 - c. Ten and one-quarter of one percent (10.25%) for wholesale sales or sales at wholesale made on or after June 1, 2017, and before June 1, 2018; and
 - d. Ten percent (10%) for wholesale sales or sales at wholesale made on or after June 1, 2018.
- (2) Wholesalers of distilled spirits and wine, ~~and~~ distributors of malt beverages, *and microbreweries* shall pay and report the tax levied by this section on or before the *twentieth*~~twentieth~~ day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine, or malt beverages is transferred from the wholesaler or distributor to retailers, *or by microbreweries to* consumers in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
- (3) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:
 - (a) Sales made between wholesalers or between distributors; and
 - (b) Sales made by a small farm winery or wholesaler of wine produced by a small farm winery, if that small farm winery produces no more than fifty thousand (50,000) gallons of wine per year.

➔Section 4. KRS 243.886 is amended to read as follows:

To reimburse himself for the cost of collecting and reporting the tax, each person required to pay and report the tax levied by KRS 243.884, *other than a microbrewery*, shall deduct on each report one percent (1%) of the tax due, provided the amount due is not delinquent at the time of payment. *A microbrewery that reports and pays the*

wholesale sales tax levied by Section 3 of this Act in accordance with Section 1 of this Act shall not be entitled to deduct one percent (1%) of the tax due.

➔Section 5. KRS 211.285 is amended to read as follows:

- (1) There is hereby created the malt beverage educational fund which shall provide moneys on a matching basis for educational information and materials that deter or eliminate underage drinking. The fund shall consist of moneys generated from one percent (1%) of the excise tax collected from the sale and distribution of malt beverages under KRS 243.720 and one percent (1%) of the wholesale tax collected from distributors of malt beverages *and microbreweries* under KRS 243.884.
- (2) The malt beverage educational fund shall be established in the State Treasury as a trust and revolving account under KRS 45.253. Moneys in the account shall be distributed by the State Treasurer to the Malt Beverage Educational Corporation, a nonprofit organization that is organized under the laws of this state, upon the authorization of the secretary of the Cabinet for Health and Family Services. The moneys shall be awarded to the corporation solely to fund educational programs to deter or eliminate underage drinking.
- (3) The secretary of the Cabinet for Health and Family Services shall authorize that moneys from the fund be disbursed to the corporation upon the secretary's receipt of a certification from the corporation showing the moneys the corporation has received from malt beverage distributors, *microbreweries*, and other private sources since the last certification. The moneys disbursed from the fund shall be equal to the contributions that the corporation has received from its members and other private sources during that period. The moneys in the fund shall be disbursed in accordance with a schedule established by the secretary, and shall be disbursed until the moneys in the fund are exhausted or until the moneys in the fund lapse in accordance with subsection (4) of this section, whichever comes first.
- (4) Moneys that are credited to the fund and not issued to the corporation shall lapse at the end of the fiscal year and shall be returned to the general fund.
- (5) As a condition of receiving the governmental funds, the corporation's board of directors shall include the following among its directors:
 - (a) The Governor or his or her designee;
 - (b) The Attorney General or his or her designee;
 - (c) The President of the Senate or his or her designee;
 - (d) The Speaker of the House or his or her designee;
 - (e) The secretary of the Cabinet for Health and Family Services or his or her designee; and
 - (f) The commissioner of the Department of Alcoholic Beverage Control or his or her designee.
- (6) All expenditures of moneys from the fund shall be approved by a majority of those persons set out in subsection (5)(a) to (f) of this section. If the moneys from the fund are not expended in their entirety, any moneys that remain unused by the corporation at the end of the fiscal year shall be returned to the general fund.
- (7) Any moneys from the fund that are not expended shall be returned to the general fund upon the dissolution of the corporation.
- (8) Any high school in the Commonwealth of Kentucky that was registered with the Department of Education as of July 1, 1997, may make an application to the Malt Beverage Education Corporation by February 28 of each year and shall be granted a minimum of five hundred dollars (\$500) annually from the funds contributed by the malt beverage educational fund for the single purpose of supporting "Project Graduation" events.

Signed by Governor March 16, 2018.

A CONCURRENT RESOLUTION establishing the Childhood Cancer Caucus within the Kentucky General Assembly.

WHEREAS, according to the National Cancer Institute, childhood cancer is the leading cause of death by disease past infancy in children in the United States; and

WHEREAS, an estimated 1 in 285 children in the United States will be diagnosed with cancer by their 20th birthday; and

WHEREAS, it is estimated that 42 children per day or 15,270 children and adolescents ages 0 to 19 years will be diagnosed with cancer in 2017 in the United States; and

WHEREAS, an estimated two-thirds of childhood cancer patients will have chronic health conditions as a result of their treatment toxicity, with one-quarter being classified as severe to life-threatening; and

WHEREAS, it is estimated that Kentucky has a 42% higher rate of pediatric brain tumors than other areas of the country; and

WHEREAS, in the last 20 years, only four new drugs have been approved by the federal Food and Drug Administration to specifically treat childhood cancer; and

WHEREAS, the National Cancer Institute recognizes the unique research needs of childhood cancer and the associated need for increased funding to carry this out; and

WHEREAS, more must be done to raise awareness and find cures for this deadly disease that affects so many children and their families; and

WHEREAS, a legislative caucus dedicated to childhood cancer will allow the General Assembly to take a leading role in prioritizing awareness and research of this urgent need for Kentucky children;

NOW, THEREFORE,

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

➔Section 1. There is hereby established a nonpartisan, bicameral caucus within the Kentucky General Assembly to be called the Childhood Cancer Caucus.

➔Section 2. The Childhood Cancer Caucus shall work to promote awareness and support for Kentucky children diagnosed with cancer that focuses on collaboration and innovation for more targeted treatments with less toxicity. The caucus shall work closely with the Kentucky Pediatric Cancer Research Trust Fund and other groups and organizations based in Kentucky to achieve its goals.

➔Section 3. It is respectfully requested that the President of the Senate and the Speaker of the House of Representatives support the creation of the Childhood Cancer Caucus by encouraging members of each chamber to participate in the caucus.

Signed by Governor March 20, 2018.

CHAPTER 18

(HB 220)

AN ACT relating to marketplace contractors.

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

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

(1) *As used in this section:*

(a) *"Marketplace contractor" means a person or entity that enters into an agreement with a marketplace platform to use its digital network or mobile application to receive connections to third party individuals or entities seeking services; and*

(b) *"Marketplace platform" means a person or entity that:*

1. *Offers a digital network or mobile application that connects marketplace contractors to third party individuals or entities seeking the type of services offered by a marketplace contractor;*
 2. *Accepts service requests from the public exclusively through its digital network or mobile application and does not accept service requests by telephone, facsimile or in person at a physical retail location; and*
 3. *Does not perform the services offered by the marketplace contractor at or from a physical business location that is operated by the platform in the state.*
- (2) *A marketplace contractor shall not be deemed to be an employee of a marketplace platform for any purpose under state and local laws, regulations, and ordinances, including but not limited to KRS Chapters 336, 341, and 342, so long as:*
- (a) *The marketplace platform and the marketplace contractor agree in writing that the marketplace contractor is an independent contractor with respect to the marketplace platform;*
 - (b) *The marketplace platform does not unilaterally prescribe specific hours during which the marketplace contractor must be available to accept service requests from third party individuals or entities submitted solely through the online-enabled application, software, Web site, or system of the marketplace platform;*
 - (c) *The marketplace platform does not prohibit the marketplace contractor from using any online-enabled application, software, Web site, or system offered by another marketplace platform;*
 - (d) *The marketplace platform does not restrict the marketplace contractor from engaging in another occupation or business;*
 - (e) *The marketplace contractor bears all or substantially all of the expenses incurred by the marketplace contractor in performing the services; and*
 - (f) *The marketplace platform does not supply instrumentalities or tools for the person doing the work;*
- (3) *For services performed by a marketplace contractor prior to the effective date of this Act, the marketplace contractor shall be treated as an independent contractor of the marketplace platform and not an employee of the marketplace platform if the requirements set forth in subsection (2) of this Act were met at the time at which the services were performed.*
- (4) *This section shall not apply to:*
- (a) *Service performed in the employment of a state or any political subdivision of a state, or in the employ of an Indian tribe, or any instrumentality of a state, any political subdivision of a state or any Indian tribe that is wholly owned by one (1) or more states or political subdivisions of Indian tribes, provided such service is excluded from employment as defined in 26 U.S.C. secs. 3301 to 3311;*
 - (b) *Service performed in the employment of a religious, charitable, educational, or other organization that is excluded from employment as defined in 26 U.S.C. secs. 3301 to 3311, solely by reason of 26 U.S.C. sec. 3306(c)(8); or*
 - (c) *Services consisting of transporting freight, sealed envelopes, boxes or parcels, or other sealed containers for compensation.*

➔Section 2. If any provisions of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Signed by Governor March 21, 2018.

CHAPTER 19

(SB 30)

AN ACT relating to crime victims' rights.

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

➔Section 1. KRS 421.576 is repealed and reenacted to read as follows:

- (1) In order to establish the minimum conduct of criminal justice professionals with respect to crime victims and to communicate the intent of the General Assembly that victims of crime play an integral role in the criminal justice process, KRS 421.500 to 421.575 is hereby named the Kentucky Crime Victim Bill of Rights.
- (2) The rights established by KRS 421.500 to 421.575 shall apply in all felony and misdemeanor proceedings in a District or Circuit Court of the Commonwealth.
- (3) Nothing in KRS 421.500 to 421.575 shall provide grounds for the victim to challenge a charging decision or a conviction, to obtain a stay of trial, or to compel a new trial. Law enforcement agencies, county attorneys, and Commonwealth's attorneys and courts shall make every reasonable effort to ensure that victims of crime receive the benefits of the rights set out in KRS 421.500 to 421.575.

➔Section 2. KRS 421.500 is repealed, reenacted, and amended to read as follows:

- (1) (a) As used in KRS 421.500 to 421.575, "victim" means *an individual directly and proximately harmed as a result of:*

1. *The commission of a crime classified as a felony; a misdemeanor involving threatened or actual physical injury, harassment, or restraint; a misdemeanor involving a child or incompetent person; or a misdemeanor involving a sexual offense or a trespass; or*
2. *Conduct which, if committed by an adult, would be classified as a felony or a misdemeanor described in subparagraph 1. of this paragraph.*

If the victim is a minor, incapacitated, or deceased, "victim" also means one (1) or more of the victim's spouse, parents, siblings, children, or other lawful representatives which shall be designated by the court unless the person is the defendant or a person the court finds would not act in the best interests of the victim.

- (b) *In a case in which the number of victims makes it impracticable to accord all victims those rights provided by KRS 421.500 to 421.575, the court may fashion a reasonable procedure that does not unduly complicate or prolong the proceeding, to give effect to this section.*

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

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

- ~~1. The spouse;~~
- ~~2. An adult child if subparagraph 1. of this paragraph does not apply;~~
- ~~3. A parent if subparagraphs 1. and 2. of this paragraph do not apply;~~
- ~~4. A sibling if subparagraphs 1. to 3. of this paragraph do not apply; and~~
- ~~5. A grandparent if subparagraphs 1. to 4. of this paragraph do not apply.~~

- ~~(b) If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victims" for the purpose of presenting victim impact testimony under KRS 532.055(2)(a)7.:~~

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

5. A grandparent.
- (2) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS 421.500 to 421.575. Communication between the victim and the special advocate shall be privileged.
- (3) Law enforcement personnel shall ensure that victims receive information on available protective, emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:
 - (a) Availability of crime victim compensation where applicable;
 - (b) Community based treatment programs;
 - (c) The criminal justice process as it involves the participation of the victim or witness;
 - (d) The arrest of the accused; and
 - (e) How to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.
- (4) Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in KRS 524.040 or 524.055.
- (5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:
 - (a) All victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduling changes that affect their appearances;
 - (b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including, but not limited to, the defendant's release on bond and any special conditions of release; of the charges against the defendant, the defendant's pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim's right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim's right to receive notice of any parole board hearing held for the defendant, and that the office of Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant; and of a scheduled hearing for shock probation or for bail pending appeal and any orders resulting from that hearing; and
 - (c) The victim knows how to register to be notified when a person has been released from a prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;
 - (d) The victim receives information on available:
 1. Protective, emergency, social, and medical services;
 2. Crime victim compensation, where applicable;
 3. Restitution, where applicable;
 4. Assistance from a victim advocate; and
 5. Community-based treatment programs; and
 - (e) The victim of crime may, pursuant to KRS 15.247, receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.
- (6) The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case including dismissal, release of the defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program.

- (7) In prosecution for offenses listed in this section for the purpose of defining "victim," law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.
- (8) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.
- (9) The Attorney General, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.
- (10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.
- (11) ***Full restitution to a named victim, if there is a named victim, shall be ordered by the court to be paid by the convicted or adjudicated party in a manner consistent, insofar as possible, with this section and KRS 439.563, 532.032, 532.033, 533.020, and 533.030 in addition to any other penalty.***
- (12) ***Nothing in KRS 421.500 to 421.575 shall be construed as altering the presumption of innocence in the criminal justice system, or to be a waiver of sovereign immunity or any other immunity or privilege maintained by the Commonwealth; its cabinets, departments, bureaus, political subdivisions, and agencies; and its officers, agents, and employees.***

➔Section 3. KRS 421.510 is repealed and reenacted to read as follows:

- (1) Where the victim is less than sixteen (16) years old and the crime is a sexual offense including violations of KRS 510.040 to 510.150, 530.020, 530.064(1)(a), 530.070, 531.310, 531.320, and 531.370, a speedy trial may be scheduled as provided in subsection (2) of this section.
- (2) The court, upon motion by the attorney for the Commonwealth for a speedy trial, shall set a hearing date on the motion within ten (10) days of the date of the motion. If the motion is granted, the trial shall be scheduled within ninety (90) days from the hearing date.
- (3) In ruling on any motion or other request for a delay or continuance of the proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

➔Section 4. KRS 421.520 is repealed and reenacted to read as follows:

- (1) The attorney for the Commonwealth shall notify the victim that, upon conviction of the defendant, the victim has the right to submit a written victim impact statement to the probation officer responsible for preparing the presentence investigation report for inclusion in the report or to the court should such a report be waived by the defendant.
- (2) The impact statement may contain, but need not be limited to, a description of the nature and extent of any physical, psychological or financial harm suffered by the victim, the victim's need for restitution and whether the victim has applied for or received compensation for financial loss, and the victim's recommendation for an appropriate sentence.
- (3) The victim impact statement shall be considered by the court prior to any decision on the sentencing or release, including shock probation, of the defendant.

➔Section 5. KRS 421.530 is repealed and reenacted to read as follows:

- (1) If a defendant is sentenced to a period of incarceration and his release is subject to the authority of the parole board, the victim may submit a written impact statement to the parole board that it shall consider when making a decision on the release of the defendant.
- (2) The impact statement may contain, but need not be limited to, a description of the long-term consequences of the crime, including but not necessarily limited to, the physical, psychological and financial harm suffered by the victim, and whether the victim has applied for or received compensation for financial loss.

➔Section 6. KRS 421.550 is amended to read as follows:

- (1) Nothing in KRS ~~421.500 to 421.575~~~~[421.510 to 421.540], [or KRS] 15.245, or 196.280~~~~[, or 421.500]~~ creates a cause of action for money damages against the state, a county, a municipality, or any of their agencies, public officials, or employees.
- (2) The jailer or chief administrator of a juvenile detention facility, regional jail, or county jail, or any of their respective designees who acts in good faith in making available the release information required by KRS 196.280, or in good faith fails or is unable to provide the release information required by KRS 196.280, shall be immune from any criminal liability.
- (3) The jailer or chief administrator of a juvenile detention facility, regional jail, or county jail, or any of their respective designees, who acts in good faith in making available the release information required by KRS 196.280, or in good faith fails or is unable to provide the release information required by KRS 196.280, and who is sued for any act or omission in relation to KRS 196.280, and who has a judgment rendered against him and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the judgment, including any costs or attorney's fees awarded pursuant thereto, shall be indemnified by the Commonwealth from funds appropriated to the Finance and Administration Cabinet for the payment of judgments, to the extent of his actual financial loss. The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available to the person claiming indemnification and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.
- (4) The Attorney General shall defend the jailer, chief administrator, or designee upon request, in any suit related to the provision of information under KRS 196.280.
- (5) *An attorney for the Commonwealth who acts in good faith in his or her ministerial duties under KRS 421.500 to 421.575 shall be immune from criminal or civil liability. The immunity shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.*

➔Section 7. The following KRS section is repealed:

421.540 Effect of failure to provide required notification.

➔Section 8. This Act shall take effect only upon the ratification, in the general election of November 6, 2018, of a Constitutional amendment providing for the protection of crime victims' rights. If such an amendment is not ratified, this Act shall be void.

Signed by Governor March 23, 2018.

CHAPTER 20

(SB 86)

AN ACT relating to capital projects.

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

➔Section 1. KRS 7A.010 is amended to read as follows:

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

- (1) "Capital project" means:
 - (a) Any undertaking which is to be financed or funded through an appropriation by the General Assembly of general fund, road fund, bond fund, trust and agency fund, or federal fund moneys, where the expenditure is a capital expenditure pursuant to statute or under standards prescribed by the Legislative Research Commission under the authority of KRS Chapter 48;
 - (b) Any undertaking which is to be financed by a capital expenditure for use by the state government or one of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020, including projects related to the construction or maintenance of roads, and including projects of institutions of higher education as defined in KRS 164A.550(2);

- (c) Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost:
 - 1. ~~*Except for items of movable equipment,*~~ ~~[a. In the case of institutions of higher education,]~~ one million dollars (\$1,000,000) or more, regardless of the source of funds; ~~[and~~
 - ~~b. In the case of all other entities, six hundred thousand dollars (\$600,000) or more regardless of the source of funds;]~~ or
 - 2. Any item of movable equipment, estimated to cost two hundred thousand dollars (\$200,000) or more, regardless of the source of funds;
 - (d) Any lease of real property whose value is two hundred thousand dollars (\$200,000) or more;
 - (e) Any lease of an item of movable equipment if the total cost of the lease, lease-purchase, or lease with an option to purchase is two hundred thousand dollars (\$200,000) or more; or
 - (f) Any new acquisition, upgrade, or replacement of an information technology system estimated to cost:
 - ~~1. In the case of institutions of higher education,]~~ one million dollars (\$1,000,000) or more; ~~[and~~
 - ~~2. In the case of all other entities, six hundred thousand dollars (\$600,000) or more;]~~
 - (2) "Board" means the Capital Planning Advisory Board of the Kentucky General Assembly created by KRS 7A.110;
 - (3) "Plan" means the state capital improvement plan provided for by KRS 7A.120;
 - (4) "State agency" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other entity of the executive, judicial, or legislative branch of the state government; and
 - (5) "Information technology system" means any related computer or telecommunications components that provide a functional system for a specific business purpose and contain one (1) or more of the following:
 - (a) Hardware;
 - (b) Software, including application software, systems management software, utility software, or communications software;
 - (c) Professional services for requirements analysis, system integration, installation, implementation, or data conversion services; or
 - (d) Digital data products, including acquisition and quality control.
- ➔Section 2. KRS 45.750 is amended to read as follows:
- (1) As used in KRS 45.760 to 45.810:
 - (a) "Committee" means the Capital Projects and Bond Oversight Committee;
 - (b) "Capital construction item" means:
 - 1. The construction, reconstruction, acquisition, and structural maintenance of buildings;
 - 2. The installation of utility services, including roads and sewers;
 - 3. The acquisition or improvement of real property;
 - 4. The purchase and installation initially or during major renovation of equipment, facilities, and furnishings of a permanent nature for buildings; or
 - 5. The acquisition of any building to be occupied by any:
 - a. Subdivision of state government as defined in KRS 12.010 or enumerated in KRS 12.020;
 - b. Municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis; and

- c. Institution of higher education;
- (c) "Lease" means any lease, lease-purchase, or lease with an option to purchase of any real property space occupied by:
 - 1. Any entity listed in paragraph (b)5. of this subsection;
 - 2. The legislative branch; or
 - 3. The judicial branch when leased from a private sector landlord;
- (d) "Equipment" means:
 - 1. Any major item of equipment, including aircraft;
 - 2. Any movable furnishing, appurtenance, or other equipment, necessary to make a building operable; and
 - 3. Equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement;
- (e) "Information technology system" means any related computer or telecommunications components that provide a functional system for a specific business purpose and contain one (1) or more of the following:
 - 1. Hardware;
 - 2. Software, including application software, systems management software, utility software, or communications software;
 - 3. Professional services for requirements analysis, system integration, installation, implementation, or data conversion services; or
 - 4. Digital data products, including acquisition and quality control;
- (f) "Capital projects" means, regardless of the source of cash or other consideration:
 - 1. Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost[-:
 - a. ~~In the case of institutions of higher education,] one million dollars (\$1,000,000) or more in cash or other consideration;[- and~~
 - b. ~~In the case of all other entities, six hundred thousand dollars (\$600,000) or more in cash or other consideration;]~~
 - 2. Any lease of real property space with an annual rental cost exceeding two hundred thousand dollars (\$200,000);
 - 3. The use allowance paid by the judicial branch for a real property space pursuant to KRS 26A.090(2) and 26A.115 when the use allowance for the space exceeds two hundred thousand dollars (\$200,000) on an annual basis;
 - 4. Any item of equipment estimated to cost two hundred thousand dollars (\$200,000) or more in cash or other consideration;
 - 5. Any lease of an item of movable equipment if the annual cost of the lease is two hundred thousand dollars (\$200,000) or more or if the total cost of the lease-purchase or lease with an option to purchase is two hundred thousand dollars (\$200,000) or more; and
 - 6. Any new acquisition, upgrade, or replacement of an information technology system estimated to cost[-:
 - a. ~~In the case of institutions of higher education,] one million dollars (\$1,000,000) or more in cash or other consideration;[- and~~
 - b. ~~In the case of all other entities, six hundred thousand dollars (\$600,000) or more in cash or other consideration;]~~

- (g) "Emergency repair, maintenance, or replacement project" means the maintenance, repair, or reconstruction of a capital construction project or the maintenance, repair, or replacement of a major item of equipment that is:
 - 1. Necessitated by injury or damage resulting from a disaster;
 - 2. Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or
 - 3. Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable;
 - (h) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster;
 - (i) "Capital construction funds" means any funds used for capital construction, including, but not limited to, appropriated capital construction funds, agency funds, federal funds, private funds, or funds from any source held by an agency for management or investment purposes; and
 - (j) "Entity head" means the Chief Justice of the Supreme Court, the President of the Senate and the Speaker of the House of Representatives, the secretary of the Finance and Administration Cabinet, the president of any university which complies with KRS 164A.585, 164A.595, and 164A.600, the board of trustees of the Kentucky Employees Retirement System, the board of trustees of the Teachers' Retirement System of the State of Kentucky, the board of directors of the Kentucky Higher Education Student Loan Corporation, the board of directors of the Kentucky Lottery Corporation, or the board of directors of the Kentucky Housing Corporation.
- (2) Except as provided in subsection (3) of this section, KRS 45.760 to 45.810 shall apply to capital projects and bonds for use by:
- (a) The state government;
 - (b) One of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020;
 - (c) A municipal corporation which exercises its authority on a statewide basis, including but not limited to the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, and Kentucky Housing Corporation; and
 - (d) Institutions of higher education.
- (3) KRS 45.760 to 45.810 shall not apply to:
- (a) Capital projects or bonds used directly in or for the construction or maintenance of roads, including but not limited to bulldozers, graders, earth movers, and real estate purchased for rights-of-way; and
 - (b) Political subdivisions, except for those defined in KRS 12.010, enumerated in KRS 12.020, or created as a municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis. However, the provisions of KRS 45.750 to 45.810 shall not apply to acquisition or maintenance of any building or land which is purchased as a legal investment by any of the state retirement systems, which is not to be occupied by the retirement system, and which is financed solely with those assets of the retirement system used for investment purposes.

Signed by Governor March 23, 2018.

AN ACT relating to entertainment destination center licenses.

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

➔Section 1. KRS 243.030 is amended to read as follows:

The following licenses that authorize traffic in distilled spirits and wine may be issued by the distilled spirits administrator. Licenses that authorize traffic in all alcoholic beverages may be issued by both the distilled spirits administrator and malt beverages administrator. The licenses and their accompanying fees are as follows:

- (1) Distiller's license:
 - (a) Class A, per annum\$3,090.00
 - (b) Class B (craft distillery), per annum\$1,000.00
- (2) Rectifier's license:
 - (a) Class A, per annum\$2,580.00
 - (b) Class B (craft rectifier), per annum.....\$825.00
- (3) Winery license, per annum\$1,030.00
- (4) Small farm winery license, per annum\$110.00
 - (a) Small farm winery off-premises retail license, per annum\$30.00
- (5) Wholesaler's license, per annum\$2,060.00
- (6) Quota retail package license, per annum\$570.00
- (7) Quota retail drink license, per annum\$620.00
- (8) Transporter's license, per annum\$210.00
- (9) Special nonbeverage alcohol license, per annum\$60.00
- (10) Special agent's or solicitor's license, per annum\$30.00
- (11) Bottling house or bottling house storage license,
per annum \$1,030.00
- (12) Special temporary license, per event\$100.00
- (13) Special Sunday retail drink license, per annum\$520.00
- (14) Caterer's license, per annum\$830.00
- (15) Special temporary alcoholic beverage
auction license, per event\$100.00
- (16) Extended hours supplemental license, per annum\$2,060.00
- (17) Hotel in-room license, per annum\$210.00
- (18) Air transporter license, per annum\$520.00
- (19) Sampling license, per annum\$110.00
- (20) Replacement or duplicate license\$25.00
- (21) Entertainment destination center license:~~[-]~~
 - (a) *When the licensee is a city, county, urban-county government, consolidated local government, charter county government, or unified
local government, per annum\$2,577.00*
 - (b) *All other licensees, per annum\$7,730.00*
- (22) Limited restaurant license, per annum\$780.00
- (23) Limited golf course license, per annum\$720.00

- (24) Small farm winery wholesaler's license, per annum\$110.00
- (25) Qualified historic site license, per annum\$1,030.00
- (26) Nonquota type 1 license, per annum\$4,120.00
- (27) Nonquota type 2 license, per annum.....\$830.00
- (28) Nonquota type 3 license, per annum.....\$310.00
- (29) Distilled spirits and wine storage license, per annum\$620.00
- (30) Out-of-state distilled spirits and wine supplier's license, per annum\$1,550.00
- (31) Limited out-of-state distilled spirits and
wine supplier's license, per annum\$260.00
- (32) Authorized public consumption license, per annum\$250.00
- (33) A nonrefundable fee of sixty dollars (\$60) shall be charged to process each new transitional license pursuant to KRS 243.045.
- (34) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In establishing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.
- (35) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary retail drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (4), (8), (9), (10), (12), (15), (19), and (20) of this section. The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

Signed by Governor March 23, 2018.

CHAPTER 22

(HB 100)

AN ACT relating to building industry licensure.

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

➔Section 1. KRS 198B.650 is amended to read as follows:

As used in KRS 198B.650 to 198B.689, unless the context requires otherwise:

- (1) "Air conditioning or cooling system" means a system in which heat is removed from air, surrounding surfaces, or both;
- (2) "Apprentice heating, ventilation, and air conditioning mechanic" means an individual in the process of learning the heating, ventilation, and air conditioning trade who assists and is under the supervision of a master heating, ventilation, and air conditioning contractor and a journeyman heating, ventilation, and air conditioning mechanic;
- (3) "Burner service" means the servicing of oil or gas burners used for heating air or water for purposes other than the transmission of heat;
- (4) "Certificate" means a document issued by the department to an apprentice heating, ventilation, and air conditioning mechanic to assist a master heating, ventilation, and air conditioning contractor or a journeyman heating, ventilation, or air conditioning mechanic;
- (5) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;
- (6) "Department" means the Department of Housing, Buildings and Construction;

- (7) "Heating system" means a system in which heat is transmitted by radiation, conduction, convection, or a combination of any of these methods to air, surrounding surfaces, or both. "Heating system" does not include fireplaces and free-standing stoves not incorporated into a primary heating system, electric thermal storage units, electric ceiling cable heating systems, or electric baseboard heating units;
- (8) "Hydronic system" means a heating and cooling system using liquids to transmit or remove heat;
- (9) "Initial heating, ventilation, or air conditioning system" means the first or original heating, ventilation, or air conditioning system installed in a building;
- (10) "Journeyman heating, ventilation, and air conditioning mechanic" means an individual who is licensed by the department to perform heating, ventilation, and air conditioning work under the supervision, direction, and responsibility of a master heating, ventilation, and air conditioning contractor;
- (11) "Maintenance person or maintenance engineer" means a person who is a regular and bona fide ~~full-time~~ employee ~~or agent~~ of a property owner, property lessor, property management company, or firm, not in the heating, ventilating, and air conditioning business that has jurisdiction of property where the routine maintenance of heating, ventilating, and air conditioning is being performed, provided the maintenance shall not include **major repairs** ~~[replacement of heating, ventilation, or air conditioning systems];~~
- (12) "Major repair" means the complete replacement of any of the following heating, ventilation, or air conditioning equipment:
 - (a) Furnaces;
 - (b) Condensing units;
 - (c) Heat pumps;
 - (d) Fan coil units;
 - (e) Chiller systems; or
 - (f) Heating boiler systems not covered by KRS Chapter 236;
- (13) "Master heating, ventilation, and air conditioning contractor" means a heating, ventilation, and air conditioning contractor who is licensed by the department to advertise and practice heating, ventilation, and air conditioning contracting in this Commonwealth;
- (14) "Permit" means a document issued by the department or its authorized agent allowing the installation of an original heating, ventilation, or air conditioning system;
- (15) "Practice of heating, ventilation, and air conditioning contracting" means the installation, maintenance, altering, remodeling, or repair of heating systems, ventilation systems, hydronic systems, burner service, or cooling systems;
- (16) "Routine maintenance of heating, ventilation, or air conditioning" means the routine and periodic servicing of heating, ventilation, and air conditioning systems, including cleaning, inspection, and adjustments to ensure the proper operation, and the removal and replacement of component parts. "Routine maintenance of heating, ventilation, or air conditioning" shall not include **major repairs** ~~[the installation of complete new heating, ventilation, or air conditioning systems];~~ and
- (17) "Ventilation system" means a natural or mechanical system of supplying air to or removing air from any space.

➔Section 2. KRS 198B.658 is amended to read as follows:

- (1) An applicant for a master heating, ventilation, and air conditioning contractor's license shall:
 - (a) Be at least eighteen (18) years of age;
 - (b) Be a citizen of the United States or be a resident alien who is authorized to do work in the United States;
 - (c)
 - 1. Have been regularly and principally employed or engaged in heating, ventilation, and air conditioning trades as a journeyman heating, ventilation, and air conditioning mechanic for not less than two (2) years under the direction and supervision of a master heating, ventilation, and air conditioning contractor; or
 - 2. Have been regularly and principally employed or engaged in the practice of heating, ventilation, and air conditioning contracting as a master heating, ventilation, and air conditioning contractor,

or equivalent thereof, for not less than ~~two (2)~~~~five (5)~~ years in **Kentucky or in** a jurisdiction other than Kentucky, as demonstrated by verifiable documentation;

- (d) Have passed an examination prescribed by the department to determine the applicant's competency to practice heating, ventilation, and air conditioning contracting; and
 - (e) Have paid a fee as established in administrative regulations promulgated by the department.
- (2) An applicant for a journeyman heating, ventilation, and air conditioning mechanic's license shall:
- (a) Be at least eighteen (18) years of age;
 - (b) Be a citizen of the United States or be a resident alien who is authorized to do work in the United States;
 - (c)
 - 1. Have been regularly and principally employed or engaged in heating, ventilation, and air conditioning trades for not less than two (2) years under the direction and supervision of a master heating, ventilation, and air conditioning contractor; or
 - 2. Have been regularly and principally employed or engaged in the performance of heating, ventilation, and air conditioning work for not less than ~~two (2)~~~~four (4)~~ years in **Kentucky or in** a jurisdiction other than Kentucky, as demonstrated by verifiable documentation;
 - (d) Have passed an examination prescribed by the department to determine the applicant's competency to install, maintain, and repair heating and cooling systems, heating and cooling service, burner service, and hydronic systems; and
 - (e) Have paid a fee as established in administrative regulations promulgated by the department.
- (3) If an applicant has obtained, while exempt from licensure under 198B.674(2), (7), (8), (10), (13), or (14), work experience that the department determines to be equivalent to the requirements of subsection (1)(c) or (2)(c) of this section, that experience may be considered as equivalent to one (1) year of employment toward the licensure requirements for a master heating, ventilation, and air conditioning contractor or journeyman heating, ventilation, and air conditioning mechanic, as applicable, not to exceed one (1) year.
- (4) (a) The department shall issue an apprentice heating, ventilation, and air conditioning mechanic's certificate to any person who registers as an apprentice with the department.
- (b) The department shall establish by administrative regulation the minimum number of hours of experience required by apprentices and shall maintain an apprentice register to credit an apprentice for hours worked under the supervision of a master heating, ventilation, and air conditioning contractor and journeyman heating, ventilation, and air conditioning mechanic. Experience gained under the supervision of a Kentucky licensed master heating, ventilation, and air conditioning contractor while registered as an apprentice with the Kentucky Labor Cabinet, Department of Workplace Standards, in cooperation with the United States Department of Labor, Bureau of Apprenticeship and Training shall be accepted toward the two (2) year experience requirement for a journeyman heating, ventilation, and air conditioning mechanic license.
- (c) The apprentice register shall include the name, address, Social Security number, employer, and dates of employment of the apprentice.
- (d) The apprentice shall notify the department in writing of any change in address or employer.
- (e) Apprentices and pre-apprentices shall not be required to pay a fee to obtain a certificate of registration or to renew a registration.
- (5) The satisfactory completion of one (1) academic year of a department-approved curriculum or one (1) year of professional training in heating, ventilation, and air conditioning work may be considered as equivalent to one (1) year of employment toward the licensure requirements for a journeyman heating, ventilation, and air conditioning mechanic, not to exceed one (1) year.
- (6) The satisfactory completion of one (1) academic year of teaching experience in a department-approved or state-approved technical education program in heating, ventilation, and air conditioning shall be considered as equivalent to one (1) year of employment, as required by subsection (1)(c) or (2)(c) of this section. No more than one (1) year of approved teaching experience may be used in meeting the requirements of subsection (1)(c) or (2)(c) of this section.

➔Section 3. KRS 198B.678 is amended to read as follows:

- (1) No firm, company, or corporation may engage in the practice of heating, ventilation, and air conditioning contracting in any county of the Commonwealth, unless the person in responsible charge of the heating, ventilation, and air conditioning work is a master heating, ventilation, and air conditioning contractor and is an employee or subcontractor of the firm, company, or corporation.
- (2) Each master heating, ventilation, and air conditioning contractor who is employed by a firm, company, or corporation engaged in the practice of heating, ventilation, and air conditioning contracting shall notify the department of that employment and upon termination of the employment.
- (3) No master heating, ventilation, and air conditioning contractor shall represent more than one (1) firm, company, or corporation ***unless the contractor is domiciled in the Commonwealth and has a minimum of twenty-five percent (25%) ownership in each firm, company, or corporation the contractor represents.***

➔SECTION 4. A NEW SECTION OF KRS 198B.650 to 198B.689 IS CREATED TO READ AS FOLLOWS:

- (1) ***The department shall grant an interim period of up to one hundred eighty (180) continuous calendar days to allow a company to utilize the master heating, ventilation, and air conditioning contractor's license of a recently deceased owner or deceased employee who procured heating, ventilation, and air conditioning permits for that company, provided that the company:***
 - (a) ***Effectuates and documents all necessary bonding and insurance policies required in this chapter; and***
 - (b) ***Ensures that the bonding and insurance policies remain in effect for the entirety of the interim time period extended by the department.***
- (2) ***The license of a deceased master heating, ventilation, and air conditioning contractor shall be terminated by the department at the end of the interim period.***
- (3) ***Upon termination of the deceased master heating, ventilation, and air conditioning contractor's license, a company shall have an employee with a current and valid Kentucky master heating, ventilation, and air conditioning contractor's license in order to procure permits and perform heating, ventilation, and air conditioning work governed by KRS 198B.650 to 198B.689.***

➔Section 5. KRS 318.054 is amended to read as follows:

- (1) The initial license for a master or journeyman plumber shall expire on the last day of the licensee's birth month in the following year. The department may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months. Renewed licenses shall expire on the last day of the licensee's birth month of each year after the date of issuance of the renewed license.
- (2) The department shall require an applicant for renewal of a license to show evidence of completing the continuing education requirements established by the department in administrative regulations promulgated under KRS 318.130.
- (3) The department shall send each licensed master and journeyman plumber a notice advising them that the annual license renewal fee is due. The notice shall be sent to the licensee's last known address no later than thirty (30) days prior to the expiration of the license. The annual license renewal fee shall be a reasonable fee set by regulation of the department. The fee for the renewal of a master plumber's license shall exceed the fee charged for a journeyman plumber's license.
- (4) A master or journeyman plumber who fails to renew a license prior to expiration may have the license renewed upon payment of the required renewal fee, a revival fee, and upon showing the completion of continuing education requirements. The revival fee for a master plumber shall be five dollars (\$5) and for a journeyman plumber three dollars (\$3). If the renewal and revival fees are not paid within one hundred eighty (180) days after the license expires, the license shall be automatically canceled by operation of law for nonpayment. A license may be reinstated upon payment of all delinquent renewal fees plus a revival fee of ten dollars (\$10) for a master plumber and six dollars (\$6) for a journeyman plumber. Upon presentation of proper evidence, the department may waive payment of any renewal or revival fee for a person serving on active duty in the Armed Forces of the United States.
- (5) (a) ***The department shall grant an interim period of up to one hundred eighty (180) continuous calendar days to allow a company to utilize the master plumber's license of a recently deceased owner or deceased employee who procured plumbing permits for that company, provided that the company:***

1. *Effectuates and documents all necessary bonding and insurance policies required in this chapter; and*
 2. *Ensures that the bonding and insurance policies remain in effect for the entirety of the interim time period extended by the department.*
- (b) *The license of a deceased master plumber shall be terminated by the department at the end of the interim period.*
- (c) *Upon termination of the deceased master plumber's license, a company shall have an employee with a current and valid Kentucky master plumber's license in order to procure permits and perform plumbing work governed by this chapter.*

➔Section 6. KRS 227.480 is amended to read as follows:

- (1) (a) A city, county, urban-county government, charter county, or consolidated local government or the state shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments or the state, require any person to obtain a permit before commencing construction, alteration, or repairs of any electrical system.
- (b) The city, county, urban-county government, charter county, or consolidated local government or the state shall require all inspections that are deemed necessary by the department for the safety of life and property. The department shall promulgate administrative regulations to describe the circumstances where inspections are required.
- (2) A city, county, urban-county government, charter county, or consolidated local government or the state shall not issue a permit unless the applicant submits proof of being licensed as an electrical contractor under KRS Chapter 227A or of acting on behalf of a licensed electrical contractor. However, the provisions of this subsection shall not apply to:
 - (a) A homeowner or farmer who does construction, alteration, or repairs of any electrical system on his or her own premises or any other person exempt from licensing under KRS 227A.030 or 227A.150; ~~[- This subsection shall not apply to]~~
 - (b) Electrical work performed by the Commonwealth of Kentucky, a city, county, urban-county government, charter county, or consolidated local government, or any subdivision thereof; **or**
 - (c) *A company with a recently deceased licensed electrical contractor, which shall be granted an interim period of up to one hundred eighty (180) continuous calendar days by the city, county, urban-county government, charter county, consolidated local government, or state to allow the company to utilize the license of the deceased electrical contractor if:*
 1. *The company effectuates and documents all necessary bonding and insurance policies required by KRS Chapter 227A; and*
 2. *Ensures that the bonding and insurance policies remain in effect for the entirety of the interim period of time extended.*
- (3) A city, county, urban-county government, charter county, or consolidated local government shall appoint and may fix the compensation of city, county, urban-county **government**, charter county, or consolidated local government electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors shall be certified under KRS 227.489.
- (4) Reasonable standards for the construction, alteration, and repair of any electrical system shall be those adopted in the Uniform State Building Code, as promulgated by the department, and shall have as a minimum standard the requirements of the National Electrical Code, **which may include Kentucky amendments**. These standards shall be used by the electrical inspector in making his inspections.

➔Section 7. KRS 227A.140 is amended to read as follows:

- (1) A master electrician who ceases to be associated with the electrical contractor and is the representative by which the licensed electrical contractor qualifies shall immediately report his or her disassociation to the department or the authorized local licensing program. The master electrician shall be responsible for all work done under his or her license until the department or the authorized local licensing program is notified by the master electrician that he or she is no longer associated with the electrical contractor.

- (2) If the holder of any electrical license ceases to be a part of the business relying upon the holder's license for its right to remain in business, the business shall employ a licensed person prior to the continuance of any business activity or within thirty (30) days, whichever comes first.
- (3) (a) *Notwithstanding subsection (2) of this section, if a master electrician dies while a business was relying on his or her license for its right to remain in business, the department shall grant an interim time period of up to one hundred eighty (180) continuous calendar days to allow the business for which the master electrician worked to utilize the master electrician's license to procure electrical permits for that business, provided that the business:*
 - 1. *Effectuates and documents all necessary bonding and insurance policies required by this chapter; and*
 - 2. *Ensures all bonding and insurance policies remain effective for the entirety of the interim time period.*
- (b) *A deceased master electrician's license shall be terminated by the department at the end of the interim period.*
- (c) *Upon termination of the deceased master electrician's license, an electrical contractor shall have an employee with a current and valid Kentucky master electrician's license in order to procure permits and perform electrical work under this chapter.*

Signed by Governor March 23, 2018.

CHAPTER 23

(HB 120)

AN ACT relating to child pornography.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

- (1) *In a criminal or civil proceeding, any property or material that portrays child pornography or a sexual performance by a minor as defined in this chapter shall remain secured or locked in the care, custody, and control of a law enforcement agency, or the prosecutor. Any property or material that portrays child pornography or a sexual performance by a minor shall not be filed with or stored by the court unless introduced as an exhibit for trial. Storage of trial court exhibits portraying child pornography or a sexual performance by a minor shall be in accordance with a court order.*
- (2) *Notwithstanding any other law or rule of court, a court shall deny, in any proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that portrays a sexual performance by a minor or constitutes child pornography so long as law enforcement, the prosecutor, or the court, if the matter was introduced as an exhibit at trial, makes the property or material reasonably available to the defendant.*
- (3) *For the purposes of this section, property or material shall be deemed reasonably available to the defendant if the prosecutor provides ample opportunity at a designated facility for the inspection, viewing, and examination of the property or material that portrays a sexual performance by a child or constitutes child pornography by the defendant, his or her attorney, or any individual whom the defendant uses as an expert during either the discovery process or a court proceeding.*

Signed by Governor March 23, 2018.

CHAPTER 24

(HB 177)

AN ACT relating to certified public accountants.

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

➔Section 1. KRS 325.220 is amended to read as follows:

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

- (1) "Attest service" means providing the following services:
 - (a) Any audit or other engagement subject to and to be performed in accordance with the current versions of the American Institute of Certified Public Accountants (AICPA) Statements on Auditing Standards (SAS), and Government Auditing Standards issued by the United States Government Accountability Office;
 - (b) Any review of a financial statement subject to and to be performed in accordance with the current versions of the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Accounting and Review Services (SSARS);
 - (c) Any examination of prospective financial information or other professional services to be performed in accordance with the current versions of the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Attestation Engagements (SSAE);
 - (d) Any engagement to be performed in accordance with the Public Company Accounting Oversight Board Auditing Standards; and
 - (e) Any examination, review, or agreed-upon procedures engagement to be performed in accordance with the SSAE, other than an examination described in paragraph (c) of this subsection;
- (2) "Board" means the State Board of Accountancy;
- (3) "Firm" means a sole proprietorship, partnership, professional service corporation, or any other form of business organization that is authorized to operate under the laws of this Commonwealth, complies with the provisions of this chapter, and is issued a license to practice by the board or is exempt from having to obtain a license pursuant to KRS 325.301;
- (4) "Firm manager" means a licensee of this state or another state designated by a firm to be responsible for the firm complying with the firm registration and firm licensing requirements contained in this chapter and administrative regulations promulgated thereunder;
- (5) "License" means a license as a certified public accountant or a firm issued pursuant to this chapter;
- (6) "Licensee" means a certified public accountant, firm, or public accountant, holding a license to practice issued under this chapter;
- (7) "Peer review" means a practice monitoring process designed to promote quality in *attest and compilation* accounting and auditing services, and protect the public interest. The process shall comply with standards that are equivalent to or more stringent than the current version of the Standards for Performing and Reporting on Peer Reviews issued by the American Institute of Certified Public Accountants (AICPA);
- (8) ~~["Peer review committee" means any person or persons administering a peer review program that is equivalent to or more stringent than a program as outlined in the American Institute of Certified Public Accountants (AICPA)'s current version of the Standards for Performing and Reporting on Peer Reviews, including provisions that provide guidance for administering peer reviews;~~
- ~~(9)~~ "Public accountant" means a public accountant issued a license to practice by the Commonwealth of Kentucky under the Public Accounting Act of 1946 as amended;
- ~~(9)~~~~(10)~~ (a) "Regulated activities" means the offering to perform or the performance for a client or potential client by a person or firm holding a license issued under this chapter of one (1) or more types of services involving the use of accounting, attest, or compilation services, including the issuance of reports on financial statements, or one (1) or more types of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.
- (b) Notwithstanding paragraph (a) of this subsection, this definition shall not prohibit anyone who is not a certified public accountant from performing accounting and bookkeeping services, as well as the preparation of tax returns or financial statements, for which attestation by the preparer is not required.

The board shall promulgate an administrative regulation defining terms, as necessary, that are not included in this chapter;

- ~~(10)(11)~~ "Report," when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information on financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence;
- ~~(11)(12)~~ ***"Sponsoring organization" means a board-approved professional society or other organization responsible for facilitating and administering a peer review program that is equivalent to or more stringent than a program as outlined in the American Institute of Certified Public Accountants (AICPA)'s current version of the Standards for Performing and Reporting on Peer Reviews, including provisions that provide guidance for administering peer reviews;***
- (12) "State" includes and means any state, territory, or insular possession of the United States, or the District of Columbia; and
- (13) "Substantial equivalency" means a determination by the board or its designee that the education, examination, and experience requirements in the statutes and administrative regulations of another state for the licensing of a certified public accountant are comparable or better than those contained in the Uniform Accountancy Act issued by the American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASBA), or that an individual certified public accountant's education, examination, and experience qualifications are comparable or exceed these national standards.

➔Section 2. KRS 325.301 is amended to read as follows:

- (1) The following firms shall obtain a license to practice in this state:
- (a) Any firm with an office located in this state performing attest services, as defined in KRS 325.220; **and**
 - (b) Any firm with an office in this state that uses the title "CPA" or other phrase or abbreviation in any manner described in KRS 325.410 to suggest it is a certified public accounting firm; ~~and~~
 - ~~(c) Any firm that does not have an office located in this state but performs any attest service described in KRS 325.220(1)(a), (c), or (d) for a client with his or her home office in this state or a client who is a resident of this state].~~
- (2) ~~[The following firms shall not be required to obtain a license to practice in this state and may use the title "CPA" in the name of the firm:~~
- ~~(a)]A firm which does not have an office in this state that performs services described in KRS 325.220(1)(b) or (c) for a client having its home office located in this state or a client who is a resident of this state shall not be required to obtain a license to practice in this state and may use the title "CPA" in the name of the firm if:~~
 - ~~(a)]1. The firm complies with the requirements contained in subsections (3)(a) and (10)(12) of this section; and~~
 - ~~(b)]2. All services provided by the firm are performed by an individual with a practice privilege granted under KRS 325.282; and~~
 - ~~(b)]3. A firm which does not have an office in this state and does not provide attest services, as defined in KRS 325.220, to a client having his or her home office located in this state or a client who is a resident of this state may provide other services that are regulated activities, as defined in KRS 325.220, if:~~
 - ~~1. The services are provided through an individual granted a practice privilege as described in KRS 325.282; and~~
 - ~~(c)]2. The firm can legally provide the services in the state where the individual with a practice privilege has his or her principal place of business.~~

- (3) All firms ~~required~~~~[seeking]~~ to obtain a license to practice in this Commonwealth shall meet the following requirements:
- (a) Certified public accountants shall hold fifty-one percent (51%) or more of the ownership of the firm in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers of the firm;
 - (b) All owners of the firm who are not certified public accountants shall be natural persons actively engaged in the firm's operations and shall satisfy additional requirements established by the board through promulgation of an administrative regulation;
 - (c) The name of the firm shall comply with the requirements of KRS 325.380;
 - (d) All certified public accountants who are sole proprietors, partners, shareholders, members, officers, directors, or employees of a firm with an office located in this state, who regularly practice in this Commonwealth, shall maintain current licenses to practice issued by the board;
 - (e) Any individual licensee and any individual qualifying for a practice privilege under this chapter who is responsible for supervising attest services and signs or authorizes someone to sign the report on behalf of the firm shall meet the competency requirements established by the board through promulgation of an administrative regulation; and
 - (f) The firm shall comply with the provisions of this chapter, the administrative regulations promulgated by the board, and all other laws of this Commonwealth applicable to the firm's particular form of business organization.
- (4) Before a firm may practice in this Commonwealth, the firm manager shall:
- (a) Submit an initial application which contains information required by the board through promulgation of an administrative regulation; and
 - (b) Pay a fee not to exceed two hundred dollars (\$200) established by an administrative regulation promulgated by the board.
- (5) The firm license shall be renewed *on or before August 1* every two (2) years by the firm manager:
- (a) Completing the renewal process according to the procedures as established in administrative regulation promulgated by the board; and
 - (b) Paying the renewal fee, which shall not exceed two hundred dollars (\$200), as established by administrative regulation promulgated by the board.
- (6) ~~[A firm license due to expire on July 1, 2011, shall:~~
- ~~(a) Be renewed by the firm manager according to the procedures established by the board through promulgation of an administrative regulation;~~
 - ~~(b) Require payment of a fee not to exceed fifty dollars (\$50) established by the board through promulgation of an administrative regulation; and~~
 - ~~(c) Expire on August 1, 2012.~~
- (7) ~~A firm license that expires on or after August 1, 2012, shall:~~
- ~~(a) Be renewed by the firm manager prior to August 1, 2012;~~
 - ~~(b) Require payment of a fee not to exceed two hundred dollars (\$200) established by the board through promulgation of an administrative regulation;~~
 - ~~(c) Be effective for two (2) years; and~~
 - ~~(d) Be renewed by the firm manager on or before August 1 of each two (2) year period thereafter according to the procedures contained in this subsection and as established by the board through promulgation of an administrative regulation.~~
- (8) ~~]~~If a firm license has been expired for a period of less than one (1) month and the firm has not violated any other provision of this chapter or the accompanying administrative regulations promulgated thereunder, the firm manager may renew the license by:

- (a) Satisfying all the requirements of this subsection, including any requirements established by the board through promulgation of an administrative regulation; and
 - (b) In addition to the renewal fee, paying a late fee not to exceed one hundred dollars (\$100).
- (7)(9) A firm with a license expired for a period of longer than one (1) month after the date of expiration shall cease operating immediately. The firm shall not operate until the board approves the issuance of a new license to the firm.
- (8) ~~[(10) Effective August 1, 2012,]~~ Sole proprietors shall comply with the licensing requirements for firms under this section.
- (9)(11) The firm manager shall notify the board in accordance with procedures established in an administrative regulation promulgated by the board, of any change in its licensing information within thirty (30) days. Any change in the name of a firm shall require the filing of an initial application.
- (10)(12) All firms that perform ***attest or compilation services*** ~~[audits, reviews, or compilations]~~ shall enroll in, ***schedule, undergo,*** and complete ***its peer review in*** ~~[on a regular basis]~~ an approved peer review program with standards that are equivalent to or better than the peer review program administered by the American Institute of Certified Public Accountants as determined by administrative regulations promulgated by the board.
- (a) Every firm shall comply with any requirements or restrictions placed on its license as prescribed by the board in response to the results of peer reviews; ***and***
 - (b) ***Every firm shall allow the sponsoring organization to provide the board access to the peer review documents via a secure Web site process, such as Facilitated State Board Access and its successor operated by the American Institute of Certified Public Accountants, or similar system operated by another equivalent sponsoring organization.***
- (11)(13) Nothing contained in this chapter shall require a certified public accountant or firm of certified public accountants licensed by another state to obtain a license to practice in this Commonwealth if the certified public accountant or firm of certified public accountants enters this Commonwealth solely to:
- (a) Conduct a peer review of a firm; or
 - (b) Perform attestation work, incidental to an engagement which was initiated with a client located outside of the Commonwealth and has extended into the Commonwealth due to common ownership or existence of a subsidiary, assets, or other operations located within the Commonwealth.
- (12) ***A Peer Review Oversight Committee may be appointed by the board to monitor the board-approved peer review program, including sponsoring organizations. The purpose of the committee is to provide reasonable assurance that peer reviews are being conducted and reported in accordance with peer review standards. The board shall promulgate an administrative regulation setting forth the process and procedures of the committee.***

➔Section 3. KRS 325.340 is amended to read as follows:

- (1) After notice and hearing as provided in KRS Chapter 13B, the board may revoke, suspend, impose a fine not to exceed one thousand dollars (\$1,000) for each violation of a provision of this chapter or administrative regulations promulgated by the board under this chapter, refuse to issue or renew any license, censure, ~~[or]~~ place on probation, ***or issue a private reprimand to*** any person or firm, all with or without terms, for any one (1) or any combination of the following causes:
- (a) Fraud or deceit in obtaining a license issued under this chapter;
 - (b) Dishonesty, fraud, or negligence while performing any regulated activity, including fiscal dishonesty or an intentional breach of fiduciary responsibility of any kind, and also including but not limited to the following:
 1. Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information; and
 2. Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses;
 - (c) Violation of any of the provisions of this chapter or administrative regulations promulgated by the board under this chapter or violation of any order of the board;

- (d) Violation of a rule of professional conduct promulgated by the board;
 - (e) Conviction of any felony, or of any crime in which dishonesty or fraud is an element, under the laws of any state or of the United States. Conviction includes, but is not limited to, pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime, if in accordance with KRS Chapter 335B;
 - (f) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant or a public accountant in any state;
 - (g) Suspension or revocation of the right to practice before any state or federal agency or the Public Company Accounting Oversight Board or its successor;
 - (h) Conduct discreditable to the accounting profession; or
 - (i) Failure to respond to a board inquiry regarding any licensing or complaint matter.
- (2) In any proceeding in which a remedy provided by subsection (1) of this section is imposed, the board may also require the respondent to pay the costs of the investigation and all proceedings.
- (3) *A private reprimand shall not be subject to disclosure to the public under KRS 61.878(1)(l). A private reprimand shall not constitute disciplinary action, but may be used by the board for statistical purposes, or in subsequent disciplinary actions against the same licensee.*
- (4) (a) *Any licensee disciplined under this section for a minor violation may request in writing that the board expunge the minor violation from the licensee's record.*
- (b) *A request for expungement may be filed no sooner than ten (10) years after the date on which the licensee completed the disciplinary sanctions imposed and may only be filed if the licensee has not been disciplined, within this same period of time, for any subsequent violation of the same nature.*
- (c) *No licensee may have his, her, or its record expunged under this section more than once.*
- (d) *A minor violation is one that does not:*
- 1. *Demonstrate a serious inability to practice the profession;*
 - 2. *Result in economic harm to a person; or*
 - 3. *Create a significant threat of such harm.*
- (5) *The board shall promulgate administrative regulations under KRS Chapter 13A to establish procedures to expunge a minor violation.*

➔Section 4. KRS 325.431 is amended to read as follows:

- (1) The proceedings, records, and workpapers of the **sponsoring organization**~~peer review committee~~ shall be privileged and not subject to discovery, subpoena, or other means of legal process, or introduction into evidence in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding. No member of the **sponsoring organization**~~peer review committee~~ or person involved in the **peer**~~quality~~ review process shall testify in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding as to any matter produced, presented, disclosed, or discussed during or in connection with the **peer**~~quality~~ review process, or as to any finding, recommendation, evaluation, opinion, or other action of the committee.
- (2) Information, documents, or records that are publicly available shall not be immune from discovery or use in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding merely because they were presented or considered in connection with the **peer**~~quality~~ review process.
- (3) The privilege created in subsection (1) of this section shall not apply to:
 - (a) Materials prepared in connection with a particular engagement merely because they happen to subsequently be presented or considered as part of the **peer**~~quality~~ review process.
 - (b) Disputes between **the sponsoring organization**~~peer review committees~~ and persons or firms subject to a **peer**~~quality~~ review arising from the performance of the **peer**~~quality~~ review.
 - (c) Correspondence and reports of the peer review program obtained by the board from a licensee seeking renewal or an individual or firm seeking to become licensed.

- (d) A statement obtained by the board from *sponsoring organization*~~[a peer review committee]~~ to determine if a licensee seeking renewal or an individual or firm seeking to become licensed is enrolled in or is not enrolled in a peer review program.

➔Section 5. KRS 325.440 is amended to read as follows:

- (1) A licensee shall not, without the consent of his client, disclose any confidential information pertaining to his client obtained in the course of performing professional services.
- (2) This section does not:
 - (a) Relieve a licensee of any obligations under the rules of professional conduct;
 - (b) Affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of a court;
 - (c) Prohibit disclosures in the course of a *peer*~~[quality]~~ review of a licensee's professional services; or
 - (d) Preclude a licensee from responding to any inquiry made by the board or any investigative or disciplinary body established by law or formally recognized by the board.
- (3) Members of the board and professional practice reviewers shall not disclose any confidential client information which comes to their attention from licensees in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to an investigative or disciplinary body of the kind referred to above.

Signed by Governor March 23, 2018.

CHAPTER 25

(HB 241)

AN ACT relating to weights and measures.

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

➔Section 1. KRS 363.590 is amended to read as follows:

- (1) The director shall issue from time to time reasonable regulations for the enforcement of KRS 363.510 to 363.850, which regulations shall have the force and effect of law. These regulations may include:
 - (a) Standards of net weight, measure, or count, and reasonable standards of fill for any commodity in package form;
 - (b) Rules governing the technical and reporting procedures to be followed and the report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their official duties;
 - (c) Exemptions from the sealing or marking requirements of KRS 363.650 with respect to weights and measures of the character or size that the sealing or marking would be inappropriate, impracticable, or damaging to the apparatus in question; ~~and~~
 - (d) Rules governing the registration of servicemen and service agencies; *and*
 - (e) ***Rules governing the examination procedure for price verification.***
- (2) These regulations shall include specifications, tolerances, and other technical requirements for weights and measures of the character of those specified in KRS 363.610, designed to eliminate from use without prejudice to apparatus that conforms as closely as practicable to the official standards, those:
 - (a) That are not accurate;
 - (b) That are of such construction that they are faulty (that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly); or
 - (c) That facilitate the perpetration of fraud.

- (3) The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices, together with amendments to those requirements, as recommended by the National Institute of Standards and Technology and published in the most recent editions of the National Institute of Standards and Technology handbooks and supplements to the handbooks, or in any publication revising or superseding the handbooks or supplements to the handbooks, shall be the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices of the State of Kentucky, unless modified, amended, or rejected by a regulation issued by the director. For the purposes of KRS 363.510 to 363.850, apparatus shall be deemed to be "correct" when it conforms to all applicable requirements promulgated as specified in this section. Other apparatus shall be deemed to be "incorrect."

➔Section 2. KRS 363.904 is amended to read as follows:

- (1) No article or commodity shall be sold or offered for sale and use in Kentucky as motor fuel unless it conforms to the following:
- (a) The motor fuel shall be labeled and posted in accordance with applicable federal and state laws; and
 - (b) The motor fuel shall conform to the latest ASTM specifications for that particular type, class, and grade of motor fuel, except *when one (1) or more of the following circumstances exists*:
 1. *When a federal law or a federal administrative regulation imposes requirements in conflict with the ASTM standard, as provided by KRS 363.902(3); or ~~and~~*
 2. *When the Governor determines that circumstances present, or are likely to present, a disruption in motor fuel supply, the Governor or the Commissioner or the secretary of the Energy and Environment Cabinet, as designated by the Governor, may issue a temporary waiver of ASTM specifications for motor fuel. The temporary waiver shall be effective for a defined period of time and shall be the shortest practicable time period necessary to permit the correction of the disruption in motor fuel supplies.*
- (2) For gasoline containing up to ten percent (10%) ethanol, in which case the vapor pressure limit for each class shall be increased by one (1) pound per square inch, and *the* ASTM V/L (vapor to liquid ratio) specification *shall be* ~~is~~ waived. Additionally, the department shall adopt a minimum temperature for fifty percent (50%) distillation of gasoline containing up to ten percent (10%) ethanol through the promulgation of an administrative regulation in accordance with KRS Chapter 13A.
- (3)~~(2)~~ The motor fuel compliance with ASTM shall be determined in accordance with the test methods prescribed in the latest ASTM publications.
- (4)~~(3)~~ All shipments of motor fuel shall state on either the bill of lading or invoice the destination of the shipment and that the shipment meets the standards and specifications required in this section. The division may obtain a sample of any shipment of motor fuel for testing. Motor fuel blending components shall be exempt from this section until they are offered for sale as motor fuel by the refiner or manufacturer.

➔Section 3. KRS 363.906 is amended to read as follows:

The department shall levy and collect annual fees in the amount of fifty dollars (\$50) per facility from the owner or operator of a retail facility for the purpose of funding the administration of the motor fuels quality program. The fees shall be deposited into an interest-bearing account in the State Treasury. Money unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year for future use. *The annual fees shall be paid to the department by January 31* ~~shall collect a fee for calendar year 1994 to start the administration of KRS 363.900 to 363.908.~~

➔Section 4. KRS 363.991 is amended to read as follows:

- (1) Any person who violates the provisions of KRS 363.420, 363.430 and 363.440 shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for the first offense; he *or she* shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), and/or be confined in the county jail for not less than sixty (60) days nor more than one hundred twenty (120) days, for each subsequent offense.
- (2) Any person who shall hinder or obstruct in any way the director, the deputy director, or any one (1) of the inspectors, or a sealer or deputy sealer, in the performance of his official duties shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment for not more than three (3) months, or by both such fine and imprisonment.

- (3) Any person who shall impersonate in any way the director, the deputy director, or any one (1) of the inspectors, or a sealer or deputy sealer, by the use of his seal or a counterfeit of his seal, or in any other manner, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.
- (4) Any person who, by himself or by his servant or agent, or as the servant or agent of another person, performs any one (1) of the acts enumerated in paragraphs (a) through (i) of this subsection shall, for each offense, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisoned for not less than three (3) months nor more than twelve (12) months, or both.
 - (a) Use or have in possession for the purpose of using for any commercial purpose specified in KRS 363.610, sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure.
 - (b) Use, or have in possession for the purpose of current use for any commercial purpose specified in KRS 363.610, a weight or measure that does not bear a seal or mark such as is specified in KRS 363.650, unless such weight or measure has been exempted from testing by the provisions of KRS 363.610 or by a regulation of the director issued under the authority of KRS 363.590, or unless the device has been placed in service as provided by a regulation of the director issued under the authority of KRS 363.590.
 - (c) Dispose of any rejected or condemned weight or measure in a manner contrary to law or regulation.
 - (d) Remove from any weight or measure, contrary to law or regulation, any tag, seal, or mark placed thereon by the appropriate authority.
 - (e) Sell, or offer or expose for sale, less than the quantity he *or she* represents of any commodity, thing, or service.
 - (f) Take more than the quantity he *or she* represents of any commodity, thing, or service, when, as buyer, agent, or receiver, he *or she* furnishes the weight or measure by means of which the amount of the commodity, thing, or service is determined.
 - (g) Keep for the purpose of sale, advertise, or offer or expose for sale, or sell any commodity, thing, or service in a condition or manner contrary to law or regulation.
 - (h) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be assumed by a customer.
 - (i) Violate any provision of KRS 363.510 to 363.850 or of the regulations promulgated under the provisions of KRS 363.510 to 363.850 for which a specific penalty has not been prescribed
- (5) *Any person who fails to pay a fine or penalty assessed by the department, or fails to remediate a violation identified by the department, in compliance with a deadline for payment or remediation set forth by the department, shall be subject to a stop operation order or a stop sale order from the department with respect to the equipment, device, or motor fuel grade that is the subject of the fine, penalty, or remediation.*

Signed by Governor March 23, 2018.

CHAPTER 26

(HB 22)

AN ACT relating to public safety.

WHEREAS, the great and essential principles of liberty and free government are a cornerstone of the Commonwealth; and

WHEREAS, those values are enshrined in the Constitution of the Commonwealth of Kentucky; and

WHEREAS, Section 2 of the Kentucky Constitution establishes that absolute and arbitrary power over life, liberty, and property exists nowhere in a republic; and

WHEREAS, Section 10 of the Kentucky Constitution protects the people in their persons, houses, papers, and possessions from unreasonable searches and seizures; and

WHEREAS, Section 11 of the Kentucky Constitution guarantees the rights to a fair trial and to due process; and

WHEREAS, the development of highly capable unmanned aerial vehicles for surveillance does not alter the expectations of privacy which the Commonwealth recognizes as reasonable;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 500 IS CREATED TO READ AS FOLLOWS:

- (1) *Except for unmanned aircraft systems operated by the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or by the Army National Guard or Air National Guard, unmanned aircraft systems may not be equipped with a lethal payload.*
- (2) *Any business entity doing business lawfully within this state may use an unmanned aircraft system for business purposes, in compliance with 14 C.F.R. pt. 107.*
- (3) *Any recreational user may operate an unmanned aircraft system within this state, in compliance with 14 C.F.R. pt. 101.*
- (4) *Any institution of higher education, or school district, may use an unmanned aircraft system for educational, research, or testing purposes.*
- (5) *No law enforcement agency, or agent thereof, shall use an unmanned aircraft system to conduct a search unless authorized under the Fourth Amendment to the United States Constitution and Section 10 of the Kentucky Constitution. If the search is conducted pursuant to a warrant, the warrant shall specifically authorize the use of an unmanned aircraft system.*
- (6) *Except as limited by subsection (5) of this section, any government agency, including a law enforcement agency, may use an unmanned aircraft system for legitimate governmental purposes.*
- (7) *When an unmanned aircraft system is used by law enforcement pursuant to subsections (5) and (6) of this section, it shall be operated in a lawful manner and shall minimize data collection on non-suspects. Disclosure of such data shall be prohibited except by order of a court of competent jurisdiction.*
- (8) *No evidence obtained or collected as the result of the use of an unmanned aircraft system shall be admissible as evidence in any civil, criminal, or administrative proceeding within this state for the purpose of enforcing state or local law, except for:*
 - (a) *Evidence collected as permitted by subsections (2) to (6) of this section; or*
 - (b) *Evidence which is offered against the owner or operator of an unmanned aircraft system to show misconduct.*
- (9) *No law enforcement agency shall be required to operate unmanned aircraft systems.*
- (10) *Operation of an unmanned aircraft system in violation of subsection (2) or (3) of this section shall be a violation for the first offense and a Class B misdemeanor for the second or subsequent offense.*
- (11) *This section may be cited as the "Citizens' Freedom from Unwarranted Surveillance Act."*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 501 IS CREATED TO READ AS FOLLOWS:

A person is guilty of an offense committed with the aid of an unmanned aircraft system if the unmanned aircraft system is under his or her control and the conduct would have given rise to criminal liability for the offense if performed directly by the person, unless the conduct consists solely of flying the unmanned aircraft system through navigable airspace in the normal course of operation of a legally registered unmanned aircraft system.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "emergency responder" means state or local law enforcement personnel, fire department personnel, corrections officers, and emergency medical personnel and those contracted for official use by emergency responders.*
- (2) *No person shall intentionally obstruct or disrupt an emergency responder from performing his or her official duties.*
- (3) *Obstructing an emergency responder is a violation for a first offense, and a Class B misdemeanor for a second or subsequent offense.*

➔Section 4. KRS 446.010 is amended to read as follows:

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

- (1) "Action" includes all proceedings in any court of this state;
- (2) "Animal" includes every warm-blooded living creature except a human being;
- (3) "Attorney" means attorney-at-law;
- (4) "Bequeath" and "devise" mean the same thing;
- (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
- (6) "Business trust" includes, except when utilized in KRS Chapter 386, a "statutory trust" as organized under KRS Chapter 386A;
- (7) "Case plan" means an individualized accountability and behavior change strategy for supervised individuals that:
 - (a) Targets and prioritizes the specific criminal risk factors of the individual based upon his or her assessment results;
 - (b) Matches the type and intensity of supervision and treatment conditions to the individual's level of risk, criminal risk factors, and individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;
 - (c) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations; and
 - (d) Specifies positive and negative actions that will be taken in response to the supervised individual's behaviors;
- (8) "Certified mail" means any method of governmental, commercial, or electronic delivery that allows a document or package to have proof of:
 - (a) Sending the document or package;
 - (b) The date the document or package was delivered or delivery was attempted; and
 - (c) The signature of the receipt of the document or package;
- (9) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;
- (10) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
- (11) "Criminal risk factors" are characteristics and behaviors that, when addressed or changed, affect a person's risk for committing crimes. The characteristics may include but are not limited to the following risk and criminogenic need factors: antisocial behavior; antisocial personality; criminal thinking; criminal associates; dysfunctional family; low levels of employment or education; poor use of leisure and recreation; and substance abuse;
- (12) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
- (13) "Directors," when applied to corporations, includes managers or trustees;
- (14) "Domestic," when applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state;

- (15) "Domestic animal" means any animal converted to domestic habitat;
- (16) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism when implemented competently;
- (17) "Federal" refers to the United States;
- (18) "Foreign," when applied to a corporation, partnership, limited partnership, business trust, statutory trust, or limited liability company, includes all those incorporated or formed by authority of any other state;
- (19) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;
- (20) "Graduated sanction" means any of a wide range of accountability measures and programs for supervised individuals, including but not limited to electronic monitoring; drug and alcohol testing or monitoring; day or evening reporting centers; restitution centers; reentry centers; disallowance of future earned compliance credits; rehabilitative interventions such as substance abuse or mental health treatment; reporting requirements to probation and parole officers; community service or work crews; secure or unsecure residential treatment facilities or halfway houses; and short-term or intermittent incarceration;
- (21) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;
- (22) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;
- (23) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;
- (24) "Legatee" and "devisee" convey the same idea;
- (25) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;
- (26) "May" is permissive;
- (27) "Month" means calendar month;
- (28) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;
- (29) "Owner" when applied to any animal, means any person having a property interest in such animal;
- (30) "Partnership" includes both general and limited partnerships;
- (31) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;
- (32) "Penitentiary" includes all of the state penal institutions except the houses of reform;
- (33) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies;
- (34) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;
- (35) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures a defendant's risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication;
- (36) "Registered mail" means any governmental, commercial, or electronic method of delivery that allows a document or package to have:
 - (a) Its chain of custody recorded in a register to enable its location to be tracked;
 - (b) Insurance available to cover its loss; and
 - (c) The signature of the recipient of the document or package available to the sender;

- (37) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;
- (38) "Risk and needs assessment" or "validated risk and needs assessment" means an actuarial tool scientifically proven to determine a person's risk to reoffend and criminal risk factors, that when properly addressed, can reduce that person's likelihood of committing future criminal behavior;
- (39) "Shall" is mandatory;
- (40) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;
- (41) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;
- (42) "Supervised individual" means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail;
- (43) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;
- (44) "Treatment" when used in a criminal justice context, means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior. Treatment options may include but shall not be limited to community-based programs that are consistent with evidence-based practices; cognitive-behavioral programs; faith-based programs; inpatient and outpatient substance abuse or mental health programs; and other available prevention and intervention programs that have been scientifically proven to produce reductions in recidivism when implemented competently. "Treatment" does not include medical services;
- (45) "United States" includes territories, outlying possessions, and the District of Columbia;
- (46) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;
- (47) "Violate" includes failure to comply with;
- (48) "Will" includes codicils; "last will" means last will and testament;
- (49) "Year" means calendar year;
- (50) "City" includes town;
- (51) Appropriation-related terms are defined as follows:
 - (a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;
 - (b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;
 - (c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in a branch budget bill as provided for in KRS Chapter 48;
- (52) "Mediation" means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations;
- (53) "Biennium" means the two (2) year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year;

- (54) "Branch budget bill" or "branch budget" means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan for the judicial branch, the legislative branch, and the executive branch, which shall include a separate budget bill for the Transportation Cabinet;
- (55) "AVIS" means the automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator's licenses and personal identification cards;~~and~~
- (56) "Cooperative," except in KRS Chapter 272, includes a limited cooperative association; *and*
- (57) *"Unmanned aircraft system" means an aircraft that is operated without the possibility of direct human interaction from within or on the aircraft and includes everything that is on board or otherwise attached to the aircraft and all associated elements, including communication links and the components that control the small unmanned aircraft, that are required for the safe and efficient operation of the unmanned aircraft in the national airspace system.*

➔Section 5. The General Assembly recognizes that the issue of unmanned aircraft system usage in the vicinity of critical infrastructure is a matter of national security, and recognizes that the Federal Aviation Administration and Department of Homeland Security are establishing a uniform nationwide process to identify critical infrastructure facilities for the purpose of implementing unmanned aircraft system-restricted airspace above those facilities.

Became law without Governor's signature March 24, 2018.

CHAPTER 27

(SB 68)

AN ACT relating to dissolution of marriage.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

In any court proceeding conducted pursuant to KRS 403.010 to 403.350, if the respondent is incarcerated for a conviction pursuant to KRS Chapter 507, 508, 509, or 510, where the petitioner is the victim, the guardian ad litem shall be paid by the Finance and Administration Cabinet.

➔Section 2. This Act shall be known and may be cited as Jeanette's Law.

Signed by Governor March 27, 2018.

CHAPTER 28

(SB 119)

AN ACT relating to cervid meat processors.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section, "cervid meat processor" means any person or business entity that:*

- (a) *Only butchers or makes meat products from meat that is not amenable under the Federal Meat Inspection Act, 21 U.S.C. secs. 601 et seq., and is exempt from mandatory inspection by the United States Department of Agriculture's Food Safety and Inspection Service;*

- (b) *Has not been inspected and passed under voluntary Food Safety and Inspection Service inspection; and*
 - (c) *Is paid to butcher or make meat products for human consumption from ten (10) or more animals that are members of the animal family Cervidae per calendar year.*
- (2) *Cervid meat processors shall dispose of any unused carcass material or waste produced as a result of butchering or making meat products from cervid meat by:*
- (a) *Complete incineration of the entire carcass and all of its parts and products;*
 - (b) *Boiling the carcass and all of its parts and products in water or heating it with steam at a temperature above boiling, continuously for two (2) hours or more;*
 - (c) *Burying the carcass and all of its parts and products in the earth at a point which is never covered with the overflow of ponds or streams and which is not less than one hundred (100) feet distant from any watercourse, sinkhole, well, spring, public highway, residence, or stable. The carcass shall be placed in an opening in the earth at least four (4) feet deep, the abdominal and thoracic cavities opened wide their entire length, and the entire carcass covered with two (2) inches of quicklime and at least three (3) feet of earth;*
 - (d) *Removal of the carcass by a duly licensed rendering establishment;*
 - (e) *Deposition of the carcass in a contained landfill approved pursuant to KRS Chapter 224;*
 - (f) *Composting of the carcass in a facility according to the Board of Agriculture's administrative regulations and approved in accordance with KRS Chapter 224;*
 - (g) *Any combination of the methods set forth in paragraphs (a) to (f) of this subsection; or*
 - (h) *Any other scientifically proven method of disposal approved by the Board of Agriculture.*

➔Section 2. KRS 150.990 is amended to read as follows:

- (1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.
- (2)
 - (a) Any person who fails to appear pursuant to a citation or summons issued by a conservation officer or peace officer of this Commonwealth for violation of this chapter or any administrative regulation promulgated thereunder shall forfeit his or her license or, if that person is license-exempt, shall forfeit the privilege to perform the acts authorized by the license. The individual shall not be permitted to purchase another license or exercise the privileges granted by a license until the citation or summons is resolved. The court shall notify the department whenever a person has failed to appear pursuant to a citation or summons for a violation of this chapter or any administrative regulation promulgated thereunder.
 - (b) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license or, if that person is license-exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.
- (3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.445, 150.450, 150.470, 150.603, 150.235(1), 150.330(2), **subsection (2) of Section 1 of this Act**, or 150.470, or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).
- (4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1), 150.485, 150.600, 150.630, 150.660, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or be imprisoned for not more

than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700. Damages assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.

- (5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- (6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), 150.235(2), (3), or (4), or 150.363 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed. Costs assessed for the restoration of wildlife under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the costs be paid through the circuit clerk.
- (8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and shall for a second offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500); and for any subsequent offense, be fined two thousand dollars (\$2,000).
- (9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of this subsection shall be in addition to the penalties for violation of subsection (8).
- (10) Any person who violates any of the provisions of KRS 150.411, 150.640, or KRS 150.450(2) or (3) shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he or she shall forfeit his license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of KRS 150.092(4) shall be liable to the landowner or occupant for reasonable compensation for damages. Wildlife replacement costs assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or occupant. The court shall not direct that the damages be paid through the circuit clerk. Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations promulgated under authority of that section shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.
- (12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.
- (13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.
- (14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.
- (15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined

not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300); for the second offense, be fined not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000); and for subsequent offenses, shall forfeit the license or, if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars (\$1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or the tenant. The court shall not direct that the damages be paid through the circuit clerk.

- (16) (a) Any person who knowingly violates KRS 150.361 shall for a first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than six (6) months, or both.
 - (b) Any person who knowingly violates KRS 150.361 shall for a second or subsequent offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) or be imprisoned in the county jail for not more than six (6) months, or both.
 - (c) In addition to the penalties specified in paragraphs (a), (b), and (d) of this subsection, a person knowingly violating KRS 150.361 shall forfeit his or her hunting license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of not less than one (1) nor more than three (3) years.
 - (d) In addition to the penalties specified in paragraphs (a), (b), and (c) of this subsection any person knowingly violating KRS 150.361 shall be liable to the department in an amount not to exceed the greater of the replacement value of any wildlife killed or wounded in violation of KRS 150.361 or double the amount of the monetary gain from knowingly violating KRS 150.361.
 - (e) Wildlife replacement costs or other costs specified in paragraph (d) of this subsection shall be ordered paid directly to the department. The court shall not direct that the replacement costs be paid through the circuit clerk.
- (17) Any person convicted of violating KRS 150.186 shall be guilty of a Class A misdemeanor and shall, whether licensed or license-exempt, forfeit his or her right to hunt, fish, trap, or be licensed as a commercial guide for a period of ten (10) years.

Signed by Governor March 27, 2018.

CHAPTER 29

(SB 129)

AN ACT relating to the reorganization of the Energy and Environment Cabinet.

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

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

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

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

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

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

II. Program cabinets headed by appointed officers:

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

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

1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
 2. ~~Division of Technical and Administrative Support.~~
 3. ~~Division of Mine Permits.~~
 - 3[4]. Division of Mine Reclamation and Enforcement.
 - 4[5]. Division of Abandoned Mine Lands.
 - 5[6]. Division of Oil and Gas.
 - 6[7]. Division of Mine Safety.
 - 7[8]. Division of Forestry.
 - 8[9]. Division of Conservation.
 - 9[10]. Office of the Reclamation Guaranty Fund.
- (d) *Office of Energy Policy* ~~[Department for Energy Development and Independence].~~
1. Division of *Energy Assistance* ~~[Efficiency and Conservation].~~
 2. ~~Division of Renewable Energy.~~
 3. ~~Division of Biofuels.~~
 4. ~~Division of Energy Generation Transmission and Distribution.~~
 5. ~~Division of Carbon Management.~~
 6. ~~Division of Fossil Energy Development].~~
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Kentucky Claims Commission.
 - (c) Kentucky Boxing and Wrestling Commission.
 - (d) Kentucky Horse Racing Commission.
 1. Office of Executive Director.
 - a. Division of Pari-mutuel Wagering and Compliance.

- b. Division of Stewards.
 - c. Division of Licensing.
 - d. Division of Enforcement.
 - e. Division of Incentives and Development.
 - f. Division of Veterinary Services.
 - (e) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
 - (f) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
 - (g) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
 - (h) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
 - (i) Department of Insurance.
 - 1. Division of Insurance Product Regulation.
 - 2. Division of Administrative Services.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Division of Consumer Protection.
 - 7. Division of Kentucky Access.
 - (j) Department of Professional Licensing.
 - 1. Real Estate Authority.
- (5) Labor Cabinet.
- (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - a. Workplace Standards Legal Division.
 - b. Workers' Claims Legal Division.
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.

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

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

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

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

- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 - 1. Division of Museums.
 - 2. Division of Oral History and Educational Outreach.
 - 3. Division of Research and Publications.
 - 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 - 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity, Equality, and Training.
 - (j) Office of Public Affairs.
- III. Other departments headed by appointed officers:
 - (1) Council on Postsecondary Education.
 - (2) Department of Military Affairs.
 - (3) Department for Local Government.
 - (4) Kentucky Commission on Human Rights.
 - (5) Kentucky Commission on Women.
 - (6) Department of Veterans' Affairs.

- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.
- (10) Kentucky Communications Network Authority.

➔Section 2. KRS 56.776 is amended to read as follows:

The cabinet, with the assistance of the *Office of Energy Policy*~~{Department for Energy Development and Independence}~~, shall institute an energy audit training program to identify energy saving techniques for state-owned building maintenance staff. Additional programs shall be developed to educate state employees and other building occupants on energy awareness and practices to reduce energy use in state-owned buildings. Local government employees may be included in training and educational programs.

➔Section 3. KRS 56.777 is amended to read as follows:

- (1) A High-Performance Buildings Advisory Committee is hereby created and shall be administratively staffed by the cabinet.
- (2) The committee shall consist of sixteen (16) members and shall include:
 - (a) A representative of the cabinet designated by the secretary;
 - (b) A representative of the Tourism, Arts and Heritage Cabinet designated by the secretary;
 - (c) A representative of the Department of Education designated by the commissioner;
 - (d) A representative of the Council on Postsecondary Education designated by the president;
 - (e) A representative of the *Office of Energy Policy*~~{Department for Energy Development and Independence}~~ designated by the *executive director*~~{commissioner}~~; and
 - (f) A representative appointed by the Governor from each of the following:
 - 1. The design and construction industry involved in public works contracting;
 - 2. The Kentucky Chapter of the U. S. Green Building Council;
 - 3. The University of Kentucky College of Design;
 - 4. The Kentucky Forest Industries Association;
 - 5. The Kentucky Society of the American Institute of Architects;
 - 6. The American Society of Heating, Refrigerating, and Air-Conditioning Engineers;
 - 7. The Associated General Contractors of Kentucky;
 - 8. The West Kentucky Construction Association;
 - 9. The Kentucky Manufactured Housing Institute;
 - 10. The Kentucky Ready Mixed Concrete Association; and
 - 11. The Plantmix Asphalt Industry of Kentucky.
- (3) The representative of the cabinet shall serve as the chairperson of the committee. All appointments shall be for a term of two (2) years. Committee members shall serve until their successors are appointed and shall be eligible for reappointment.
- (4) The committee shall meet at least monthly or as convened by the chairperson.
- (5) The members of the committee shall receive reimbursement for the cost of travel to and from the meetings and any costs necessarily incurred in carrying out their duties.
- (6) The committee shall:
 - (a) Consult with architects, engineers, builders, energy and conservation organizations, and other interested stakeholders, and make recommendations to the cabinet regarding:

1. Standards and benchmarks developed under existing high-performance building programs, including the ENERGY STAR rating system, Green Globes rating system, and Leadership in Energy and Environmental Design (LEED) Green Building rating system; and
 2. Standards and guidelines developed and adopted by the U.S. Green Building Council, the American Society of Heating, Refrigerating and Air-Conditioning Engineers, and the Illuminating Engineering Society of North America partnership concerning the design of sustainable buildings to balance environmental responsibility, resource efficiency, occupant comfort and well-being, and community sensitivity;
- (b) Assist the cabinet in the review of state building projects to ensure that building performance and efficiency are maximized to the extent economically feasible using a life-cycle cost analysis;
 - (c) Assist the cabinet in developing a process of documentation of the attainment of high-performance building standards; and
 - (d) Assist the cabinet in conducting an ongoing professional development program for state and local building designers, construction companies, school districts, building managers, and the general public on high-performance building design, construction, maintenance, and operation.
- (7) Prior to the implementation of KRS 56.770 to 56.784, the cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section. The cabinet shall consider the recommendations made by the High-Performance Buildings Advisory Committee pursuant to subsection (6) of this section and shall establish the criteria for the high-performance building standards and the benchmarks by which the high-performance building standards will be measured. At a minimum, the cabinet shall:
- (a) Include the standards for site selection and management, water efficiency, energy conservation, waste reduction, material and resource use, and indoor air quality; and
 - (b) Require that each high-performance building be designed, constructed, or renovated so that it is capable of being rated as an ENERGY STAR building in accordance with the criteria and rating system adopted by the United States Environmental Protection Agency and in effect at the time the building is designed or, in the case of leased buildings, at the time the lease is entered into on or after July 1, 2018.
- (8) In developing the criteria for the high-performance building standards, the cabinet shall consider and encourage the use of:
- (a) Locally grown lumber from forest lands implementing sustainable practices established by the American Tree Farm System's Sustainable Forest Initiative or the Kentucky Forest Stewardship Program established under KRS 149.330 to 149.355;
 - (b) Building materials manufactured with recycled content within the Commonwealth; and
 - (c) Renewable energy sources.

➔Section 4. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
- (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100) of value of all real property directed to be assessed for taxation;
 - (b) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all privately owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
 - (c) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all qualifying voluntary environmental remediation property, provided the property owner has corrected the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not financed through a public grant or the petroleum storage tank environmental assurance fund. This rate shall apply for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, after which the regular tax rate shall apply;

- (d) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all tobacco directed to be assessed for taxation;
- (e) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of unmanufactured agricultural products;
- (f) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;
- (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all livestock and domestic fowl;
- (h) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
- (i) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all machinery actually engaged in manufacturing;
- (j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast and equipment used to gather or transmit weather information, but excluding telephone and cellular communication towers;
- (k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this paragraph if the tangible personal property is being used for its intended purposes;
- (l) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390;
- (m) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043;
- (n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes:
 - 1. Machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement;
 - 2. Motor vehicles:
 - a. Held for sale in the inventory of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230; or
 - b. That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;
 - 3. Raw materials, which includes distilled spirits and distilled spirits inventory; and
 - 4. In-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business;
- (o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the operating property of railroads or railway companies that operate solely within the Commonwealth;
- (p) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on aircraft not used in the business of transporting persons or property for compensation or hire;

- (q) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes; and
 - (r) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.
- (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding:
- (a) The assessment of new property as defined in KRS 132.010(8);
 - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1)(b) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.
- (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the department shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the department, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
- (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:
- (a) The revenue resulting from new property as defined in KRS 132.010(8);
 - (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section;
- the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.
- (5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (2) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to the State Treasury and credited to the *Office of Energy Policy*~~Department for Energy Development and Independence~~ for the purpose of public education of coal-related issues.

➔Section 5. KRS 141.0405 is amended to read as follows:

- (1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:
- (a) 1. Is an electric power company subject to tax under KRS 136.120;
 - 2. Is an entity that owns or operates a coal-fired electric generation plant; or

3. Is an alternative fuel facility as defined in KRS 154.27-010 or a gasification facility as defined in KRS 154.27-010 that has not been approved for incentives under Subchapter 27 of KRS Chapter 154;
 - (b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020, 141.040, or 141.0401; and
 - (c) Purchases coal subject to the tax imposed under KRS 143.020 that is used:
 1. For the purpose of generating electricity; or
 2. As feedstock for an alternative fuel facility as defined in KRS 154.27-010 or a gasification facility as defined in KRS 154.27-010;

by the taxpayers, or by a parent company if the taxpayer is a wholly owned subsidiary.
- (2) The amount of the allowable credit shall be two dollars (\$2) per each incentive ton of coal purchased that is subject to tax under KRS 143.020 and that is used to generate electric power or used as feedstock for an alternative fuel facility as defined in KRS 154.27-010 or a gasification facility as defined in KRS 154.27-010.
- (3)
 - (a) Incentive tons are calculated as the tons of coal purchased in the current year for which coal severance tax was paid minus the tons of coal purchased and used during the base year.
 - (b) For an existing electric power company subject to tax under KRS 136.120 that expands operations to include an alternative fuel facility as defined in KRS 154.27-010 or a gasification facility as defined in KRS 154.27-010, the incentive tons for the expanded operation calculated in paragraph (a) of this subsection shall not include any coal subject to the incentives provided under KRS 143.024 and 154.27-060.
- (4) The base year amount shall be equal to:
 - (a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or
 - (b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).
- (5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the department. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased in the base year and the tons of coal purchased in the year for which the credit is being claimed. The department shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.
- (6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the department under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:
 - (a) The credit shall first be applied against both the taxes imposed by KRS 141.020 or 141.040 and the tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205;
 - (b) The credit shall next be applied to the taxes imposed by KRS 136.070; and
 - (c) Any remaining credit shall be applied against the taxes imposed by KRS 136.120.
- (7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.
- (8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.
- (9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

- (10) The department shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.
- (11) The ***Office of Energy Policy***~~[Department for Energy Development and Independence]~~ shall:
- (a) 1. Certify that an alternative fuel facility for which a credit is being requested meets the definition as provided in KRS 154.27-010; or
 2. Certify that a gasification facility for which a credit is being requested meets the definition as provided in KRS 154.27-010; and
 - (b) Notify the department of the certification.
- (12) To assist in determining the amount of coal purchased and used that is eligible for the credit, the department shall obtain from the University of Kentucky Center for Applied Energy Research a reasonable and typical estimate of the tons of coal needed to produce a given output of coal-derived alternative transportation fuels, coal-derived synthetic natural gas, coal-derived liquid fuels, or other coal-derived chemicals or chemical feedstocks, considering:
- (a) The type of coal to be used;
 - (b) Equipment to be employed;
 - (c) Size and output of the facility;
 - (d) Slate of products produced; and
 - (e) Other characteristics of the alternative fuel facility or gasification facility.

➔Section 6. KRS 141.428 is amended to read as follows:

- (1) As used in this section:
- (a) "Clean coal facility" means an electric generation facility beginning commercial operation on or after January 1, 2005, at a cost greater than one hundred fifty million dollars (\$150,000,000) that is located in the Commonwealth of Kentucky and is certified by the Energy and Environment Cabinet as reducing emissions of pollutants released during generation of electricity through the use of clean coal equipment and technologies;
 - (b) "Clean coal equipment" means equipment purchased and installed for commercial use in a clean coal facility to aid in reducing the level of pollutants released during the generation of electricity from eligible coal;
 - (c) "Clean coal technologies" means technologies incorporated for use within a clean coal facility to lower emissions of pollutants released during the generation of electricity from eligible coal;
 - (d) "Eligible coal" means coal that is subject to the tax imposed under KRS 143.020;
 - (e) "Ton" means a unit of weight equivalent to two thousand (2,000) pounds; and
 - (f) "Taxpayer" means taxpayer as defined in KRS 131.010(4).
- (2) Effective for tax years ending on or after December 31, 2006, a nonrefundable, nontransferable credit shall be allowed for:
- (a) Any electric power company subject to tax under KRS 136.120 and certified as a clean coal facility or any taxpayer that owns or operates a clean coal facility and purchases eligible coal that is used by the taxpayer in a certified clean coal facility; or
 - (b) A parent company of an entity identified in paragraph (a) of this subsection if the subsidiary is wholly owned.
- (3) (a) The credit may be taken against the taxes imposed by:
1. KRS 136.070;
 2. KRS 136.120; or
 3. KRS 141.020 or 141.040, and 141.0401.

- (b) The credit shall not be carried forward and must be used on the tax return filed for the period during which the eligible coal was purchased. The Energy and Environment Cabinet must approve and certify use of the clean coal equipment and technologies within a clean coal facility before any taxpayer may claim the credit.
 - (c) The credit allowed under paragraph (a) of this subsection shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.
- (4) The amount of the allowable credit shall be two dollars (\$2) per ton of eligible coal purchased that is used to generate electric power at a certified clean coal facility, except that no credit shall be allowed if the eligible coal has been used to generate a credit under KRS 141.0405 for the taxpayer, a parent, or a subsidiary.
 - (5) Each taxpayer eligible for the credit provided under subsection (2) of this section shall file a clean coal incentive credit claim on forms prescribed by the Department of Revenue. At the time of filing for the credit, the taxpayer shall submit an electronic report verifying the tons of coal subject to the tax imposed by KRS 143.020 purchased for each year in which the credit is claimed. The Department of Revenue shall determine the amount of the approved credit and issue a credit certificate to the taxpayer.
 - (6) Corporations and pass-through entities subject to the tax imposed under KRS 141.040 or 141.0401 shall be eligible to apply, subject to the conditions imposed under this section, the approved credit against its liability for the taxes, in consecutive order as follows:
 - (a) The credit shall first be applied against both the tax imposed by KRS 141.0401 and the tax imposed by KRS 141.020 or 141.040, with the ordering of credits as provided in KRS 141.0205;
 - (b) The credit shall then be applied to the tax imposed by KRS 136.120.

The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order before applying any remaining credit to the next tax listed. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

- (7) If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the amount of approved credit shall be applied against the tax imposed by KRS 141.0401 at the entity level, and shall also be distributed to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of the income of the pass-through entity. The credit shall be claimed in the same manner as specified in subsection (6) of this section. Each pass-through entity shall notify the Department of Revenue electronically of all partners, members, or shareholders who may claim any amount of the approved credit. Failure to provide information to the Department of Revenue in a manner prescribed by regulation may constitute the forfeiture of available credits to all partners, members, or shareholders associated with the pass-through entity.
- (8) The taxpayer shall maintain all records associated with the credit for a period of five (5) years. Acceptable verification of eligible coal purchased shall include invoices that indicate the tons of eligible coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.
- (9) The Department of Revenue shall develop the forms required under this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.
- (10) The **Office of Energy Policy**~~Department for Energy Development and Independence~~ within the Energy and Environment Cabinet and the Department of Revenue shall promulgate administrative regulations necessary to administer this section.
- (11) This section shall be known as the Kentucky Clean Coal Incentive Act.

➔Section 7. KRS 141.436 is amended to read as follows:

- (1) (a) For taxable periods beginning after December 31, 2008, and beginning before January 1, 2016, there is hereby created a nonrefundable credit against the tax imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the ordering of credits as provided in KRS 141.0205. The credit shall apply if one (1) or more of the items listed in paragraph (b) of this subsection is installed during the taxable year in a dwelling unit located in the Commonwealth that is owned by the taxpayer and used by the taxpayer as:
 1. The taxpayer's principal place of residence; or
 2. A single-family or multifamily residential rental unit.

- (b) The tax credit shall equal thirty percent (30%) of the installed costs of:
 - 1. Upgraded insulation, not to exceed one hundred dollars (\$100);
 - 2. Energy-efficient windows and storm doors, not to exceed two hundred fifty dollars (\$250); or
 - 3. Qualified energy property, not to exceed two hundred fifty dollars (\$250).
 - (c) In no case shall the total credits provided under this subsection exceed five hundred dollars (\$500) per taxpayer.
- (2) (a) For taxable years beginning after December 31, 2008, and beginning before January 1, 2016, there is hereby created a nonrefundable credit against the tax imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the ordering of credits as provided in KRS 141.0205, if one (1) or more of the items listed in paragraph (b) of this subsection is installed during the taxable year on a dwelling unit located in the Commonwealth, or on property located in the Commonwealth that is owned and used by the taxpayer as commercial property.
- (b) The tax credit shall equal:
 - 1. Thirty percent (30%) of the installed costs of:
 - a. An active solar space-heating system;
 - b. A passive solar space-heating system;
 - c. A combined active solar space-heating and water-heating system;
 - d. A solar water-heating system; and
 - e. A wind turbine or wind machine; or
 - 2. Three dollars (\$3) per watt direct current (DC) of rated capacity of a solar photovoltaic system.
 - (c) In no case shall the total tax credits provided in this subsection exceed:
 - 1. Five hundred dollars (\$500) per taxpayer if installed on a dwelling unit located in the Commonwealth that is owned by the taxpayer and used by the taxpayer as:
 - a. The taxpayer's principal place of residence; or
 - b. A single-family residential rental unit; or
 - 2. One thousand dollars (\$1,000) per taxpayer if installed on property located in the Commonwealth that is owned and used by the taxpayer as:
 - a. A multifamily residential rental unit; or
 - b. Commercial property;
- (3) (a) For taxable years beginning after December 31, 2008, and beginning before January 1, 2016, there is hereby created a nonrefundable credit against the tax imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the ordering of credits as provided in KRS 141.0205, if one (1) or more of the following is installed during the taxable year on property located in the Commonwealth that is owned and used by the taxpayer as commercial property:
- 1. An energy-efficient interior lighting system; and
 - 2. An energy-efficient heating, cooling, ventilation, or hot water system.
- (b) The tax credit shall equal thirty percent (30%) of the installed costs of:
 - 1. An energy-efficient interior lighting system, not to exceed five hundred dollars (\$500) per taxpayer; and
 - 2. An energy-efficient heating, cooling, ventilation, or hot water system, not to exceed five hundred dollars (\$500) per taxpayer.
 - (c) In no case shall the total tax credits provided in this subsection exceed one thousand dollars (\$1,000) per taxpayer.
 - (d) For purposes of the tax credit provided by this subsection, "commercial property" shall not include single-family or multifamily residential units.

- (4) The tax credits provided under this section shall apply in the tax year in which the installation is completed. If the credit cannot be taken in full in the year in which the installation is completed, the tax credit may be carried forward one (1) year.
- (5) The department may request copies of invoices, purchase receipts, installation contracts, proof of installer's NABCEP certification, and any other information that the department determines necessary to verify credits taken.
- (6) If the taxpayer has taken the ENERGY STAR home or the ENERGY STAR manufactured home tax credit provided under KRS 141.437, the tax credits provided under this section shall not apply.
- (7) The department shall establish, by administrative regulation, the guidelines and technical requirements for items that are eligible for the tax credits provided under subsection (2) of this section, including but not limited to requirements for capacity, siting, plumbing, collector mountings, and pressurization. The department shall enlist the assistance, cooperation, and recommendations of the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~ and the Kentucky Pollution Prevention Center at the University of Louisville in determining those guidelines and technical requirements and may enlist their assistance in evaluating the eligibility of credits taken under this section.
- (8) On or before December 1, 2010, and on or before every December 1 thereafter, the department shall report to the Legislative Research Commission the total number and gross amount of each type of tax credit claimed on returns processed during the fiscal year ending prior to the December reporting date.

➔Section 8. KRS 141.470 is amended to read as follows:

The **Office of** Kentucky Nature Preserves~~[Commission]~~ shall maintain a separate account showing all remittances to, and disbursements from, the Kentucky nature preserves fund made from contributions under KRS 141.455. Contributions remitted to the Kentucky nature preserves fund under KRS 141.465 shall be disbursed by the **Office of** Kentucky Nature Preserves~~[Commission]~~ for the acquisition of land or interests in land as provided in KRS 146.465 and for the protection, maintenance, and use of the land, and for no other purpose.

➔Section 9. KRS 143.090 is amended to read as follows:

- (1) The Transportation Cabinet shall certify to the commissioner of the Department of Revenue by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.
- (2) The **Office of Energy Policy**~~[Department for Energy Development and Independence]~~ shall certify to the commissioner of the Department of Revenue by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research development or demonstration project undertaken by the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~. The amount so certified shall in no case exceed three million dollars (\$3,000,000) in any one (1) year.
- (3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the commissioner of the Department of Revenue shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:
 - (a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and
 - (b) An amount equal to the amount certified by the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~ shall be transferred by appropriate interfund transfer procedures to the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~.
- (4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~ shall be deposited by the Department of Revenue to the credit of the general fund.
- (5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the commissioner of revenue shall prorate the proceeds to the transportation fund and the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~ based upon the ratio of each certified amount to the total of the two (2) certified amounts.

➔Section 10. KRS 146.210 is amended to read as follows:

As used in KRS 146.210 to 146.360, the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

- (1) "Stream or watercourse" shall mean a flowing body of water or a section or portion thereof, including rivers, streams, and creeks.
- (2) "Free flowing" shall mean existing or flowing in a natural condition without impoundment, diversion, straightening, riprapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any stream is proposed for inclusion in the Wild Rivers System shall not automatically bar its consideration for such inclusion; provided, that this shall not be construed to authorize or to be intended to encourage future construction of such structures within components of the Wild Rivers System.
- (3) "Road" shall mean a highway, a hard-surfaced road, or an improved or unimproved dirt road. The existence, however, of unimproved roads at the time any stream is proposed for inclusion in the Wild Rivers System shall not automatically bar its consideration for such inclusion; provided, that this shall not be construed to authorize or to be intended to encourage future construction of such roads where this would be contrary to the provisions of KRS 146.200 to 146.360.
- (4) "Wilderness type recreation" shall mean activities such as fishing, hunting, canoeing, camping, hiking, horseback riding, exploring, archaeological and scientific investigation, and scenic and aesthetic enjoyment, which utilizes and protects to the highest degree the primitive and natural values of the area.
- (5) "Visual horizon" shall mean the normal distance to which land and vegetative features can be unobstructedly viewed from the center of the stream.
- (6) "Access point" shall mean an area along the stream under public ownership, or under easement acquired by agreement with a private landowner. This area would be available for public recreational use including, but not limited to, the launching of boats, picnicking, and camping.
- (7) "Secretary" shall mean the secretary of the Energy and Environment Cabinet or the successor to that office.
- (8) **"Office" shall mean the Office of Kentucky Nature Preserves.**

➔Section 11. KRS 146.230 is amended to read as follows:

Streams which substantially meet the following criteria are eligible for inclusion in the Wild Rivers System:

Streams or sections of streams that are essentially free-flowing, with shorelines and scenic vistas essentially primitive and unchanged, free from evidence of the works of man, and pleasing to the eye. The waters shall not be polluted beyond feasible correction and shall be kept unpolluted once corrected according to standards established by the Energy and Environment Cabinet **through the Office of Kentucky Nature Preserves**. The area may provide a high quality fish and wildlife habitat, containing one or more unique or rare species for sport or observation. It may provide opportunities for scientific study or appreciation of essentially undisturbed ecological, geologic, or archaeologic conditions. It shall provide wilderness type recreation such as canoeing and hiking, or specialized uses without disturbing the primitive character of the area.

➔Section 12. KRS 146.250 is amended to read as follows:

~~The [secretary of the Energy and Environment Cabinet shall, by June 16, 1974, determine generally the] boundaries of a [the] stream area associated with a [the] stream or stream segment [initially] included in the Wild Rivers System by KRS 146.200 to 146.360 shall include [Establishment of these boundaries shall be accomplished in such a way that it includes] at least the visual horizon from the stream, but not more than two thousand (2,000) feet from the center of the stream. The boundary shall further include access points, at the upstream and downstream boundary of the area.~~

➔Section 13. KRS 146.260 is amended to read as follows:

- (1) The **office**~~[secretary for energy and environment]~~ shall study and from time to time submit to the Governor and to the General Assembly proposals for additions to the Wild Rivers System of streams and sections of streams **that**~~[which, in his judgment, would]~~ qualify for inclusion therein. Each proposal shall be accompanied by:
 - (a) A detailed map showing the boundaries of the stream or sections of streams and those adjacent lands needed to protect and administer the needed controls.
 - (b) The category of the proposed additions in accordance with KRS 146.230.

- (c) A detailed report on the factors which make the area a worthy addition to the system.
- (2) The intention of this requirement is to insure that such studies will be made; it is not intended to preclude or discourage, but rather encourage similar studies and proposals by other agencies or by citizen groups working independently. Authority for additions to the Wild Rivers System shall remain exclusively with the Kentucky General Assembly.

➔Section 14. KRS 146.270 is amended to read as follows:

The Wild Rivers System shall be administered by the ***Office of Kentucky Nature Preserves***~~[Energy and Environment Cabinet]~~ according to the policies and criteria set forth in KRS 146.200 to 146.360. The ***cabinet upon recommendation of the office***~~[secretary]~~ shall adopt rules or promulgate administrative regulations necessary for the preservation and enhancement of the stream areas as set forth in KRS 146.250, and for control of recreational, educational, scientific, and other uses of these areas in a manner that shall not impair them. In administration primary emphasis shall be given to protecting aesthetic, scenic, historic, archaeological, and scientific features of the area. The ***office***~~[secretary]~~ shall develop a management plan for a designated stream area and shall publicize and hold public hearings and record the views expressed on each plan developed. Management plans for a given stream area may establish varying degrees of intensity for its protection, based on special attributes of each area, but shall follow the concepts embodied in KRS 146.230. No public use of lands within the boundaries of a designated wild river area in which the state has acquired an interest shall be permitted prior to the development of a management plan.~~[Any management plan shall be developed jointly with the Department of Fish and Wildlife Resources with respect to those aspects of the plan as relate to the jurisdiction of that department over fish and wildlife resources.]~~

➔Section 15. KRS 146.280 is amended to read as follows:

- (1) Within the boundaries of a designated stream area, as established and authorized by the Kentucky General Assembly, the ***office***~~[secretary]~~ shall be authorized and empowered to acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title, an easement, or any acceptable lesser interest in any lands, and by lease or conveyance, contract for the right to use and occupy any lands. Where property within such boundaries is owned by the federal government, the ***office***~~[secretary]~~ can enter into agreements with the landowning agency concerning use of the property consistent with the objectives of KRS 146.200 to 146.360. Nothing in KRS 146.200 to 146.360 shall be construed to deprive a landowner of the fee simple title to or lesser interest in his property without just compensation.
- (2) The ***office***~~[secretary]~~ may not exercise authority to acquire lands or interests in lands located within any incorporated city, village, or county when such entities have in force a duly adopted, valid ordinance or plan for the management, zoning and protection of such lands in accordance with the provisions of KRS 146.200 to 146.360.

➔Section 16. KRS 146.290 is amended to read as follows:

- (1) The provisions of this section shall not apply to those uses existing at such time as a stream is included in the system.
- (2) Land uses to be allowed within the boundaries of a designated stream area shall be as follows:

New roads, structures or buildings may be constructed only where necessary to effect a use permitted under the other provisions of KRS 146.200 to 146.360. Utility lines or pipelines may be constructed as approved by the ***office***~~[secretary]~~ in writing and under provision that the affected land be restored as nearly as possible to its former state. This provision, however, shall in no way affect the rights between a landowner and a utility company or pipeline company. There shall be no strip mining as defined in KRS 350.010, and select cutting of timber or other resource removal and agricultural use, may be allowed pursuant to regulations promulgated by the secretary upon the granting of a permit under the other provisions of KRS 146.200 to 146.360. All instream disturbances such as dredging, shall be prohibited. Except for the management agency and any existing uses which do not conform to the purposes and intent of KRS 146.200 to 146.360, travel upon a wild river or any public lands within the designated boundaries thereof, shall be by foot, horseback, canoe, boat or other nonmechanical modes of transportation. If there are existing agricultural areas within the boundaries of the area, such areas may continue to be used for agricultural purposes.

- (3) Any landowner within the boundaries of the area may apply to the ***office***~~[secretary]~~ for a change of use to permit the select cutting of timber, a resource removal or an agricultural use upon his property located within the area~~[and the secretary shall hold a public hearing after public notice on the application within sixty (60) days].~~ ***The office shall provide public notice within thirty (30) days of the receipt of the permit application, and the landowner or any interested person may, within thirty (30) days of the public notice, request a***

~~public hearing and provide any evidence or information~~~~[The landowner or any interested person shall be allowed to present evidence]~~ as to whether the proposed use by the applying landowner is in accordance with the management plan developed pursuant to KRS 146.270, the purpose and intent of the Wild Rivers Act as expressed in KRS 146.220, and other applicable law.

- (4) The ~~office~~~~[secretary]~~ shall, within ~~thirty (30)~~~~[sixty (60)]~~ days ~~of the close of the comment period, or public hearing, if one is requested~~~~[after said hearing]~~, either:
- (a) Issue an order, with accompanying opinion, denying the permit; or
 - (b) Issue an order, with accompanying opinion, granting the permit with such restrictions, terms and conditions as are appropriate to protect to the fullest extent possible the wild rivers area and the public trust therein within the intent of KRS 146.220; or
 - (c) Recommend an alternate use to which the land may be put under KRS 146.200 to 146.360 which is more consistent with the purposes and intent of KRS 146.200 to 146.360 than the use for which application was made; or
 - (d) Institute condemnation proceedings in the circuit court of the county in which the land is located or else negotiate a purchase of the land affected, or any interest therein.
- (5) On or before thirty (30) days from the date of the ~~office's determination~~~~[secretary's ruling]~~, the landowner may file with the ~~office~~~~[department]~~ a written objection to the ~~determination~~~~[ruling]~~. If, within the next sixty (60) days the landowner and the secretary are unable to reach an agreement with respect to a modification of ~~the determination~~~~[his ruling]~~, the ~~office~~~~[secretary]~~ must either permit the use applied for, condemn the property, or petition the Franklin Circuit Court for an order restraining the proposed use. The order shall be entered immediately upon the filing of the petition and the execution of a bond without surety by the Commonwealth in an amount satisfactory to the court to indemnify the landowner against loss of profits from any wrongful restraint of the use of his property during the period from the filing of the petition until such time as the matter is concluded by the courts. The court shall review the decision as to both law and fact; but no factual finding shall be reversed unless clearly erroneous or else arbitrary, capricious, or an abuse of discretion.

➔Section 17. KRS 146.310 is amended to read as follows:

All state agencies shall~~[,]~~ promptly~~[upon June 16, 1972,]~~ inform the ~~office~~~~[secretary for energy and environment]~~ of any proceedings, studies, or other activities within their jurisdictions, and regardless of by whom requested, which are now in progress and which affect or may affect any of the streams specified in KRS 146.241. They shall likewise inform ~~the office~~~~[him]~~ of any such proceedings, studies or other activities ~~that~~~~[which]~~ are hereafter commenced or resumed before they are commenced or resumed.

➔Section 18. KRS 146.320 is amended to read as follows:

Nothing in KRS 146.200 to 146.360 shall preclude a component of the Wild Rivers System from becoming a part of the National Wild and Scenic Rivers System. The ~~office~~~~[secretary]~~ shall be directed to encourage and assist any federal studies for inclusion of Kentucky streams in the National Wild and Scenic Rivers System. The ~~office~~~~[secretary]~~ may enter into written cooperative agreements for joint federal-state or interstate administration of a Kentucky component of the National Wild and Scenic Rivers System, provided agreements for the administration of water and land uses are not less restrictive than those set forth in KRS 146.200 to 146.360.

➔Section 19. KRS 146.330 is amended to read as follows:

The ~~office~~~~[secretary]~~ may employ such technical, clerical, stenographic, and other employees and assistants as are required to effectively carry out ~~the~~~~[his]~~ duties and responsibilities as provided in KRS 146.200 to 146.360.

➔Section 20. KRS 146.340 is amended to read as follows:

A fund for the purpose of carrying out the provisions of KRS 146.200 to 146.360 is hereby created to be designated as a "Wild Rivers System fund" to consist of all revenues derived from privileges, concessions, contracts, or otherwise, all moneys received by gifts, contributions, donations, and grants from public or private sources. Such "Wild Rivers System fund" shall be disbursed by the ~~office~~~~[Energy and Environment Cabinet]~~, after appropriations are made by law, for administration and other expenses and for other purposes provided by KRS 146.200 to 146.360.

➔Section 21. KRS 146.350 is amended to read as follows:

It shall be the duty of the cabinet's Office of Legal Services, or upon the secretary's request, of the Attorney General, to bring an action for the recovery of the penalties provided for in KRS 146.990 and to bring an action for a

restraining order, temporary or permanent injunction, for the prevention or correction of a condition constituting or threatening to constitute a violation of KRS 146.200 to ~~146.619~~~~[146.360]~~. All actions for injunctive relief for violation of KRS 146.200 to ~~146.619~~~~[146.360]~~ shall be brought in the name of the Commonwealth of Kentucky by the cabinet's Office of Legal Services, or upon the secretary's request, by the Attorney General in the Franklin Circuit Court. If the action seeks recovery of penalties in addition to injunctive relief, it shall be brought to one (1) of the counties through which the designated portion of the river runs.

➔Section 22. KRS 146.415 is amended to read as follows:

As used in KRS 146.410 to 146.530:

- (1) "Natural area" means any area of land or water, or of both land and water, in public or private ownership, which either retains, or has reestablished to some degree in the judgment of the ~~office~~~~[commission]~~ its natural character, though it need not be completely natural and undisturbed, or which has natural flora, fauna, biological, ecological, geological, scenic or archaeological features of scientific, aesthetic, cultural or educational interest;
- (2) "Nature preserve" means a natural area, and land necessary for its protection, any estate, interest or right in which has been formally dedicated under the provisions of KRS 146.410 to 146.530 to be maintained as nearly as possible in its natural condition and to be used in a manner and under limitations consistent with its continued preservation, without impairment, disturbance or artificial development, for the public purposes of present and future scientific research, education, aesthetic enjoyment and habitat for plant and animal species and other natural objects;
- (3) "Articles of dedication" means the writing by which any estate, interest or right in a natural area is formally dedicated, as provided in KRS 146.410 to 146.530;
- (4) ~~"Office"~~~~["Commission"]~~ means the *Office of* Kentucky~~[State]~~ Nature Preserves~~[Commission]~~;
- (5) "System" means the state system of nature preserves established under KRS 146.410 to 146.530;
- (6) "Cabinet" means the Energy and Environment Cabinet;
- (7) *"Executive director"* means the *executive* director of the *Office of* Kentucky~~[State]~~ Nature Preserves~~[Commission]~~; and
- (8) "Secretary" means the secretary of the Energy and Environment Cabinet.

➔Section 23. KRS 146.430 is amended to read as follows:

- (1) *The Office of Kentucky Nature Preserves is hereby created within the office of the secretary to carry out the purposes of KRS 146.200 to 146.619.* In order to effectuate and administer KRS ~~146.200 to 146.619~~~~[146.410 to 146.530]~~, the secretary may appoint a full-time *executive* director~~[, with the approval of the commission,]~~ who shall be qualified by training and experience to perform the duties of this office and carry out the purpose of KRS ~~146.200 to 146.619~~~~[146.410 to 146.530]~~, and who shall hold office at the pleasure of the secretary. The salary of the director shall be determined by the secretary. ~~The executive director shall, upon the advice and consent of the commission,~~ *the executive director shall*~~[secretary shall, upon the advice and consent of the commission,]~~ employ and fix the compensation of such personnel as may be necessary to effectuate the provisions of KRS ~~146.200 to 146.619~~~~[146.410 to 146.530]~~.
- (2) The *executive* director shall, upon the advice and consent of the ~~[commission and the]~~ secretary, provide for the allocation of the work and activities of all employees of the ~~office~~~~[commission]~~.
- (3) *If federal or other grant funds become available to pay their salaries, the executive director may appoint and employ other persons that may be deemed necessary or desirable to accomplish the purposes of KRS 146.200 to 146.619. The executive director shall determine the compensation, duties, and terms of employment of these employees, and grant-funded, time-limited positions shall be approved by the secretary as needed. Employees whose salaries are funded through federal or other grant funds shall not be counted in any tally of permanent employees made for employee cap or budgetary purposes.*

➔Section 24. KRS 146.435 is amended to read as follows:

Representatives of such agencies, institutions, organizations or individuals as the ~~office~~~~[commission]~~ may determine may serve as advisors to the ~~office~~~~[commission]~~ with the privilege of discussion and debate. Such advisors may receive such compensation as is deemed appropriate by the ~~office~~~~[commission]~~. ~~Nothing in this section shall be construed to prevent the members of the commission from meeting without the participation of advisors.~~

➔Section 25. KRS 146.440 is amended to read as follows:

In order to secure for the people of the Commonwealth of Kentucky of present and future generations the benefits of an environment having one or more of the characteristics of a natural area, the ~~office~~~~commission~~ is hereby empowered to acquire in the name of the Commonwealth of Kentucky and to hold in trust for the benefit of the general public an adequate system of nature preserves *and natural areas* in the manner herein set forth, and for the following uses and purposes:

- (1) For scientific research in such fields as, but not limited to, ecology, taxonomy, genetics, forestry, pharmacology, agriculture, soil science, geology, paleontology, ornithology, herpetology, mammalogy, biology, entomology, agronomy, conservation, and all other natural sciences;
- (2) For the teaching of biology, natural history, ecology, geology, conservation and other related subjects;
- (3) As habitats for plant and animal species and other natural objects;
- (4) As reservoirs of natural materials;
- (5) As places of natural interest and beauty;
- (6) As living illustrations of our natural heritage wherein one may observe and experience natural biotic and ecological systems of the earth and their processes;
- (7) To promote understanding and appreciation of the aesthetic, cultural, scientific and spiritual values of our unpolluted and unspoiled environment;
- (8) For the preservation and protection of nature preserves against modification or encroachment resulting from occupation, development or other use which would destroy their natural or aesthetic conditions;
- (9) As places where people may observe nature's web of life and our natural heritage, and as reminders of the vital human dependence upon unspoiled natural areas.

➔Section 26. KRS 146.445 is amended to read as follows:

The ~~office~~~~commission~~ and the cabinet shall coordinate the activities of the ~~office~~~~commission~~ and those of the cabinet in an effective and practical manner, allocating those activities and functions pertaining to preservation and use of natural areas to the ~~office~~~~commission~~.

➔Section 27. KRS 146.450 is amended to read as follows:

To effectuate the purposes of KRS 146.410 to 146.530, the ~~office~~~~cabinet~~ has the powers and duties enumerated as follows:

- ~~(1) To provide administrative services, office facilities, and such other assistance as may be agreed upon by the cabinet and the commission;~~
- ~~(2) To enforce rules established by the commission pertaining to public use of and activities on nature preserves, and on any real property held by the office~~~~commission~~;
- ~~(2)(3) To acquire, subject to the prior written approval of the commission,~~ by gift, devise, purchase, grant, agreement, dedication, and transfer the fee simple title, or any lesser right or interest, in real property *containing natural areas*, including but not limited to, leasehold estates, easements, and licenses granting to the ~~office~~~~commission~~ specified rights of use or licenses denying to the grantor specified rights of use, or both, and to dedicate the same to the system of nature preserves as provided in KRS 146.410 to 146.530;
- ~~(3)(4) To dedicate in the manner provided for in KRS 146.410 to 146.530 real property held by it as nature preserves;~~
- ~~(4)(5) To transfer from or to the office~~~~commission~~ real property or any interests or rights therein.

➔Section 28. KRS 146.455 is amended to read as follows:

Funds available for use by the cabinet for land acquisition, or for other designated activities, if not otherwise restricted, may be allocated by the cabinet to the ~~office~~~~commission~~ for land acquisition, or other herein authorized activities.

➔Section 29. KRS 146.460 is amended to read as follows:

The ~~office~~~~commission~~ shall establish and publish a public register of natural areas which shall include areas other than nature preserves considered by the ~~office~~~~commission~~ to be particularly worthy of preservation for the public purposes of present and future scientific research, education, scenic and aesthetic enjoyment or which provide habitat and protection for plant and animal species and communities and other natural features. No natural area shall be

construed to be unworthy of preservation because it is not included in the register. Publication of the register is notice to all public agencies that the registered natural areas are worthy of preservation.

No area so registered shall be a nature preserve unless and until it shall have been dedicated as provided for in KRS 146.410 to 146.530.

➔Section 30. KRS 146.465 is amended to read as follows:

The ~~office[commission]~~ is authorized and empowered for and on behalf of the Commonwealth of Kentucky:

- (1) To accept and administer gifts, grants, devises and bequests of money, securities or property to be used by the ~~office[commission]~~ for the purposes of KRS ~~146.200 to 146.619~~~~[146.410 to 146.530]~~.
- (2) To acquire natural areas by gift, devise, purchase or exchange, provided that any interest owned by the Commonwealth or by any subdivision thereof may be dedicated only by voluntary act of the agency having jurisdiction thereof.
- (3) To acquire the fee simple interest or any one or more lesser estates, interests and rights therein, including, but not limited to, leasehold estates, easements, and licenses either granting the Commonwealth specified rights of use or licenses denying to the grantor specified rights of use, or both. Lesser than fee simple estates, particularly scenic easements, should be sought in the establishment of trails or other narrow or elongated or extensive uses.
- (4) For the purpose of protecting a nature preserve, adjoining land that is not otherwise suitable for dedication as part of the nature preserve may be dedicated as buffer area in the same manner as provided in KRS 146.410 to 146.530 for the dedication of a nature preserve. A dedicated buffer area shall have the same protection under KRS 146.410 to 146.530 as a nature preserve.
- (5) An estate, interest or right in a natural area may be dedicated by any agency of the Commonwealth having jurisdiction thereof, by any other unit of government within the state having jurisdiction thereof, and by private owners thereof in the same manner as the ordinary conveyance of land. A dedication shall be deemed effective, and a natural area shall become a nature preserve only upon the acceptance of the articles of dedication by the ~~office[commission]~~. Articles of dedication shall be placed on public record in the proper place for recording deeds in the county or counties in which the area is located, and with the ~~office[commission]~~ at its Frankfort office.
- (6) Articles of dedication may contain restrictions relating to management, use, development, transfer, and public access, as well as such other provisions as may be necessary to further the purposes of KRS 146.410 to 146.530. Specifically, the donor, deviser or grantor of the preserve may prescribe the places where, and the means by which, the public may secure access to the preserve so as to protect the preserve from overuse and maintain the unencumbered private use of undedicated lands adjoining the preserve. The articles may likewise provide penalties and procedures to be applied in case of violation of their provisions. The articles may recognize and create reversionary rights, transfers upon conditions, and gifts. The articles may vary in provisions from one nature preserve to another in accordance with differences in the characteristics and conditions of the areas involved, or for other reasons found necessary by the ~~office[commission]~~ and the landowner.
- (7) Upon such terms and conditions as the ~~office[commission]~~ may determine, the ~~office[commission]~~ may enter into amendments of any articles of dedication upon a finding by the ~~office[commission]~~ that such amendments will not permit an impairment, disturbance, use or development of the area inconsistent with the purposes of the articles of dedication or of KRS 146.410 to 146.530; provided, however, that if the fee simple interest in the area is not held by the Commonwealth of Kentucky under KRS 146.410 to 146.530, no amendment shall be made without the written consent of the owner or owners of the other interests therein.

➔Section 31. KRS 146.475 is amended to read as follows:

The fee simple estates, or lesser interests, or other contractual rights held as nature preserves are hereby declared to be held in trust, in the name of the Commonwealth, for those uses and purposes expressed in KRS 146.410 to 146.530 which are not prohibited by the articles of dedication, for the benefit of the people of the Commonwealth of Kentucky of present and future generations and are declared to be put to their highest, best and most important use for the public benefit. Said estates, interests, or rights held as nature preserves shall be managed and protected in the manner approved by, and subject to the rules and regulations established by the ~~office[commission]~~, and they shall not be taken by another public body through eminent domain or otherwise for any other use, except after a finding by the ~~office[commission]~~ of the existence of an imperative and unavoidable public necessity for such other public use. Except as may otherwise be provided in the articles of dedication, the ~~office[commission]~~ may grant or dispose of an

estate, interest or right held in a nature preserve only after a finding by the ~~office~~~~[commission]~~ of the existence of an imperative and unavoidable public necessity for such grant or disposition; provided however, that where less than a fee simple interest has been dedicated, such disposition or grant shall also require the written consent of the owner or owners of the other interests therein.

➔Section 32. KRS 146.480 is amended to read as follows:

Before the ~~office~~~~[commission]~~ shall make any findings of the existence of an imperative and unavoidable public necessity, or shall grant or dispose of any estate, interest or right in a nature preserve, or shall enter into any amendment of any articles of dedication, it shall give notice of such proposed action in accordance with Chapter 424 of the Kentucky Revised Statutes.

➔Section 33. KRS 146.485 is amended to read as follows:

In furtherance of the purposes of KRS 146.410 to 146.530, the ~~office~~~~[commission]~~ shall have the following additional powers and duties:

- (1) To seek and approve the dedication of nature preserves as part of the system;
- (2) To make and publish policies and rules, and to recommend to the secretary the promulgation of administrative regulations for the selection, acquisition, management, protection, and use of natural areas and nature preserves, and for the conduct of ~~office~~~~[commission]~~ affairs;
- (3) To cooperate with and to contract with any public body of this state, any public body of any other state, any private organization, any individual, and the federal government and its agencies;
- (4) To purchase land from a willing seller without the use of the powers of condemnation or eminent domain, which said powers are expressly denied to the ~~office~~~~[commission]~~;
- (5) To make reasonable investigations as to the ownership of any lands which it judges may be appropriate for acquisition;
- (6) To maintain a state registry of natural areas, an inventory of natural types, flora, and fauna, and other records of natural areas and nature preserves within the Commonwealth;
- (7) To promote the coordination of all departments, divisions and branches of state, county and city governments within the Commonwealth which relate to nature preserves;
- (8) To study the operation of all laws, rules, regulations, orders, and governmental policies affecting conservation of natural resources pertaining to natural areas, and to recommend to the Governor, and to the General Assembly, new legislation, rules, regulations, orders and policies in the interest of correcting natural resource conservation problems pertaining to natural areas and nature preserves;
- (9) To provide a central clearing house of information for environmental and conservation matters and to promote educational programs pertaining to natural areas and nature preserves;
- (10) To conduct research, investigations, public hearings, and interpretative programs and to publish and disseminate information to the general public pertaining to natural areas and nature preserves;
- (11) To supervise the protection, management, and use of nature preserves and to enforce and administer rules and regulations pertaining thereto;
- (12) To promote, study, investigate, recommend, encourage, advise and assist in the preservation, protection, and management of natural areas;
- (13) To report to the Governor and General Assembly on proposed legislation, policies, regulations, or actions, public or private, which may significantly affect the quality of the natural ecology or the human environment in the Commonwealth. Such report shall include an evaluation of environmental and ecological effects, and shall compare any adverse effects of the proposed action against possible social benefits. The report shall describe and recommend appropriate alternatives, which avoid significant adverse effects on the quality of the natural ecology of natural areas;
- (14) To submit to the Governor and members of the General Assembly, a report on or before **October 1 of each even-numbered year**~~[January 15, 1977, and by the same date each second year thereafter]~~, detailing the condition of each nature preserve in the system, and each registered natural area, and make other reports and recommendations as it may deem advisable.

➔Section 34. KRS 146.490 is amended to read as follows:

An owner of an area which is dedicated as a nature preserve may retain custody thereof, or may designate a custodian, subject to the rules and regulations of the ~~office[commission]~~. If the owner or custodian declines, is unable, or fails to administer and manage the nature preserve in accordance with the articles of dedication, the ~~office[commission]~~ shall undertake such custodial functions as may be necessary for the protection, maintenance, and use of the nature preserve until the disability is removed. Whenever feasible, and consistent with the articles of dedication, the ~~office[commission]~~ shall vest custody of a nature preserve in the former owner, a private organization or an individual.

➔Section 35. KRS 146.495 is amended to read as follows:

The ~~office[commission]~~ may, with the approval of the cabinet, transfer title, lease, or assign custody or other interest or right therein, or contract for the custody, maintenance, and operation of a nature preserve or other real property with another public agency or private organization. Such transfer, lease, assignment or contract must be consistent with the purposes of KRS 146.410 to 146.530.

➔Section 36. KRS 146.507 is amended to read as follows:

Where the acquisition or dedication of less than a fee simple estate in land is proposed, and the mineral estate is severed from the surface, the consent of the owner of the mineral estate shall be provided to the ~~office[commission]~~ prior to approval of the acquisition or dedication.

➔Section 37. KRS 146.510 is amended to read as follows:

- (1) Nothing contained in KRS 146.410 to 146.530 shall be construed as interfering with the purposes stated in the establishment of any national, state or local park, preserve, wildlife refuge, wildlife management area, forest or other similar area or the proper management and development thereof, except that any agency administering a natural area dedicated as a nature preserve under the provisions of KRS 146.410 to 146.530 shall be responsible for preserving the character of the natural area in accordance with the articles of dedication and the applicable rules and regulations with respect thereto established by the ~~office[commission]~~ under KRS 146.410 to 146.530.
- (2) Neither the dedication of a natural area as a nature preserve, nor any action taken by the ~~office[commission]~~ under any of the provisions of KRS 146.410 to 146.530, shall void or replace any protective status under law which the natural area would have were it not a nature preserve, and the protective provisions of KRS 146.410 to 146.530 shall be supplemental thereto.

➔Section 38. KRS 146.515 is amended to read as follows:

- (1) All departments, agencies, officers and employees of the Commonwealth shall cooperate with the ~~office[commission]~~ and its employees in carrying out its functions under KRS 146.410 to 146.530.
- (2) The ~~executive~~ director ~~[duly appointed by the commission]~~ or any employee authorized by the ~~executive~~ director shall, for purposes of KRS 146.410 to 146.530, have complete and timely access to all records of every agency, division or department of state, county or city government within the Commonwealth. Nothing in this section shall be construed to permit the ~~office[commission]~~ to disclose those matters which by law are required to be kept confidential.

➔Section 39. KRS 146.520 is amended to read as follows:

A fund for the purpose of carrying out the provisions of KRS 146.410 to 146.530 is hereby created and is designated the "Kentucky Nature Preserves Fund" and shall consist of all revenues derived from privileges, concessions, and contracts granted by the ~~office[commission]~~, and all moneys received by it from gifts, contributions, donations and grants from governmental or private sources, and moneys appropriated from general funds of the state for the purposes of KRS 146.410 to 146.530. The Kentucky nature preserves fund shall be disbursed by the ~~office[commission]~~, for administration and other expenses and for all purposes provided by KRS 146.410 to 146.530.

➔Section 40. KRS 146.525 is amended to read as follows:

~~[Upon the commission's request,]~~ It shall be the duty of the *cabinet's Office of Legal Services, or upon the secretary's request* ~~[Office of General Counsel of the Department]~~ of the Attorney General, to bring any appropriate legal action in the name of the Commonwealth of Kentucky, including but not limited to, actions for restraining orders, or for temporary or permanent injunctions for the prevention or correction of conditions which constitute a violation of KRS ~~146.200 to 146.619~~ ~~[146.410 to 146.530]~~ or the provisions of the articles of dedication.

➔Section 41. KRS 146.530 is amended to read as follows:

Administrative appeals from any order or final determination by the ~~office~~~~commission~~ under KRS 146.410 to 146.530 shall be made in accordance with procedures established by regulations of the ~~office~~~~commission~~.

➔Section 42. KRS 146.550 is amended to read as follows:

As used in KRS 146.550 to 146.570:

- (1) "Wetlands" means land that has a predominance of hydric soils and is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
- (2) "Hydric soils" means soils that, in their undrained condition, are saturated, flooded, or ponded long enough during the growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.
- (3) "Hydrophytic vegetation" means a plant growing in water or a substrate that is at least periodically deficient of oxygen during the growing season as a result of excess water content.
- (4) **"Office" means the Office of Kentucky Nature Preserves.**
- (5) **"Cabinet" means the Energy and Environment Cabinet.**

➔Section 43. KRS 146.560 is amended to read as follows:

- (1) There is hereby established a Kentucky Heritage Land Conservation Fund Board, referred to hereafter as "the board", which shall administer the Kentucky Heritage Land Conservation fund established in KRS 146.570 and shall review and approve all grants payable from the fund. The board shall consist of the following members:
 - (a) The commissioner of the Department of Parks or a designee;
 - (b) The *executive* director of the *Office of Kentucky Nature Preserves*~~[Commission]~~ or a designee;
 - (c) The commissioner of the Department for Natural Resources or a designee;
 - (d) The commissioner of the Department of Fish and Wildlife Resources or a designee;
 - (e)~~— The chairperson of the Kentucky Environmental Education Council or a designee;~~
 - (f)~~— One (1) person appointed by the Governor, from two (2) persons nominated by the Kentucky Chapter of the Nature Conservancy;~~
 - ~~(g)~~ One (1) person appointed by the Governor, from two (2) persons nominated by the League of Kentucky Sportsmen;
 - ~~(f)(h)~~ **One (1) person**~~Two (2) persons~~ appointed by the Governor, from **two (2)**~~four (4)~~ persons recognized for their expertise in natural resource issues and nominated by the Kentucky Academy of Sciences;
 - ~~(g)(i)~~ One (1) person appointed by the Governor, from three (3) persons nominated, one (1) by the Kentucky Farm Bureau, one (1) by the Commissioner of the Department of Agriculture, and one (1) by the Kentucky Association of Conservation Districts;
 - ~~(h)(j)~~ One (1) person appointed by the Governor, from **four (4)**~~three (3)~~ persons nominated, one (1) by the Kentucky Audubon Council, one (1) by the Cumberland Chapter of the Sierra Club, **one (1) by the Kentucky Chapter of the Nature Conservancy**, and one (1) by the Kentucky Conservation Committee; and
 - ~~(i)(k)~~ One (1) person appointed by the Governor with at least five (5) years of experience in natural resources land acquisition.

The board shall receive staff support from the *Office of Kentucky Nature Preserves*. **Board members shall serve terms of three (3) years and they**~~Energy and Environment Cabinet and the Department of Fish and Wildlife Resources. Of the seven (7) members identified in paragraphs (f) to (k) of this subsection and first appointed, two (2) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, and three (3) for terms of three (3) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for a term of three (3) years in each case. Members~~ may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion

of the term in the same manner as the original appointment to that term. The Governor shall appoint a chairperson for the board, *selected from seated members of the board*.

- (2) The ~~cabinet may~~~~board shall~~ promulgate *upon recommendation of the board* in accordance with the provisions of KRS Chapter 13A administrative regulations as are deemed necessary for application for funds from the agencies and private, nonprofit land trust organizations identified in KRS 146.570, review and approval of proposed projects, and review and approval of grants. Grants shall be made in amounts, for purposes, and to the agencies and private, nonprofit land trust organizations identified in KRS 146.570 as meet the priorities for acquisition which are:
- (a) Natural areas that possess unique features such as habitat for rare and endangered species;
 - (b) Areas important to migratory birds;
 - (c) Areas that perform important natural functions that are subject to alteration or loss; or
 - (d) Areas to be preserved in their natural state for public use, outdoor recreation and education.

The ~~cabinet may~~~~board shall~~ promulgate administrative regulations, *upon recommendation of the board and* in accordance with the provisions of KRS Chapter 13A, on acquisition based on these priorities and property costs seeking to maximize the greatest public benefit by taking advantage of those priority areas available below fair market value and where public or private funds are available on a matching basis. Additionally, private, nonprofit land trust organizations, in order to be eligible to receive grants, shall match dollar-for-dollar any funds approved by the board. The board shall expend the whole or any part of the principal and interest as needed. KRS 146.550 to 146.570 shall not allow the use of condemnation powers and shall only allow acquisition of land from willing sellers.

➔Section 44. KRS 146.570 is amended to read as follows:

- (1) There is hereby established in the State Treasury a fund entitled "Kentucky Heritage Land Conservation fund." The fund shall primarily receive state appropriations, gifts, grants, federal funds, and tax receipts. The fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Moneys in the fund not expended at the end of a fiscal year shall be carried forward to the next fiscal year, and the fund shall not lapse. Moneys in the fund shall be invested in accordance with administrative regulations developed by the State Investment Commission in accordance with KRS 42.525. Interest earnings shall accrue to the fund.
- (2) The fund shall be attached for administrative, budgeting, and capital planning and reporting purposes to the *Office of Kentucky Nature Preserves*~~Energy and Environment Cabinet~~. Land acquisitions shall be authorized by the General Assembly and reported to the Capital Projects and Bond Oversight Committee in accordance with KRS 45.750 to 45.800. Allocation of moneys as approved by the board for management of the lands shall be appropriated to each separate agency as part of its operating budget.
- (3) Moneys in the fund shall be used exclusively for the purposes of acquisition and management of lands as defined in KRS 146.560 *and for administration of the fund program by the office*. Each recipient of moneys shall develop and implement a resource management plan for each tract acquired.~~[except a resource management plan for properties adjacent to a state park shall be developed and managed by the Department of Parks.]~~ and shall allocate *some*~~[at least ten percent (10%) of]~~ moneys received for management of lands acquired *as directed by the board*. Lands acquired shall be maintained in perpetuity for the purposes set out in KRS 146.560.
- (4) Moneys in the fund shall be allocated as follows:
 - (a) The Department of Parks shall receive ten percent (10%);
 - (b) The Department of Fish and Wildlife Resources shall receive ten percent (10%);
 - (c) The Energy and Environment Cabinet, Division of Forestry, shall receive ten percent (10%);
 - (d) Ten percent (10%) shall be allocated for *the Wild Rivers System*~~[wild rivers corridors]~~ established by the Kentucky Wild Rivers Act, KRS 146.200 to 146.360, and any administrative regulations promulgated pursuant thereto;
 - (e) The *Office of Kentucky Nature Preserves*~~Commission~~ shall receive ten percent (10%); and
 - (f) The board shall receive the remaining fifty percent (50%), for allocation to private, nonprofit land trust organizations, state agencies, local governments, and state colleges and universities. Any funds

expended under this paragraph to private, nonprofit land trust organizations shall be matched dollar-for-dollar as required in KRS 146.560(2).

➔Section 45. KRS 146.605 is amended to read as follows:

As used in KRS 146.600 to 146.619:

- (1) **"Office"**~~["Commission"]~~ means the **Office of** Kentucky~~["State"]~~ Nature Preserves~~["Commission"]~~, created by KRS ~~146.430~~~~["146.425"]~~.
- (2) "Endangered species" means any species of plant that is in danger of extirpation throughout all or a significant portion of its range within the Commonwealth, or any plant species determined to be an "endangered species" pursuant to the Endangered Species Act.
- (3) "Endangered Species Act" means the Endangered Species Act of 1973, Public Law 93-205 (87 Stat. 884), as amended.
- (4) "Plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof.
- (5) "Species" includes any species, subspecies, or variety of plant.
- (6) "Threatened species" means any species of plant likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the state, or any species of plant determined to be a "threatened species" pursuant to the Endangered Species Act.
- (7) **"Cabinet" means the Energy and Environment Cabinet.**

➔Section 46. KRS 146.610 is amended to read as follows:

- (1) The ~~office~~~~["commission"]~~ may conduct investigations, with the permission of the landowner, on any species of plants indigenous to the Commonwealth necessary to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data, and to determine protective measures and requirements necessary for its survival.
- (2) (a) Any plant species identified as endangered or threatened by the Endangered Species Act shall be automatically and immediately considered in a similar category under KRS 146.600 to 146.619. The ~~office~~~~["commission"]~~ may promulgate administrative regulations, **upon recommendation of the office**, identifying any other species of plant within the state as an endangered or threatened species as a result of any one (1) of the following factors:
 1. The present or threatened destruction, modification, or curtailment of its habitat or range;
 2. Overutilization for commercial, recreational, scientific, educational, or private purposes;
 3. Disease, predation, or vandalism;
 4. The inadequacy of existing regulatory mechanisms affecting the continued existence within the state; or
 5. Other factors affecting its continued existence within the state.
- (b) The ~~cabinet~~~~["commission"]~~ may, **upon recommendation of the office**, promulgate administrative regulations setting forth criteria for identifying and designating species of plants native to Kentucky which are in danger of extirpation within the Commonwealth or threatened with becoming endangered in the Commonwealth. The ~~cabinet~~~~["commission"]~~ may, **upon recommendation of the office**, promulgate administrative regulations that identify species that it determines to be endangered or threatened. These lists shall identify the common and scientific names of each species. The lists shall include all plant species native to Kentucky which are listed as endangered or threatened on the "United States List of Endangered and Threatened Plants" pursuant to the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. secs. 1531-1543, as amended. The lists may also include species listed in the appendices of the "Convention on International Trade in Endangered Species," signed March 3, 1973, as Ex. Doc. H, 93rd Congress, 1st Session. Further, the ~~office~~~~["commission"]~~ may provide for public education purposes lists of plant species which may become threatened in the future through habitat loss, commercial exploitation, or other means, or which are presumed to be extirpated within the Commonwealth. All lists shall be updated at least every four (4) years.
- (3) Locational and population health information relating to endangered or threatened and other plant species shall be kept in the ~~office's~~~~["commission's"]~~ natural heritage database. Information to be considered when adopting,

amending, or rescinding endangered or threatened plant species lists as required in this section shall be recorded in the natural heritage database prior to use in determining the status of a plant species.

- (4) The ~~office~~~~[commission]~~ shall present to the Governor and the General Assembly a report *on or before October 1* every four (4) years~~, starting on or about January 10, 1998,~~ on the conditions and needs of the Commonwealth's endangered or threatened plant species.
- (5) In carrying out programs authorized by KRS 146.600 to 146.619, the ~~office~~~~[commission]~~ may enter into agreements or contracts with federal agencies, other states, agencies or political subdivisions of the Commonwealth, or with individuals or private organizations for administration and management of any program established under KRS 146.600 to 146.619 or utilized for the protection of endangered or threatened plant species.

➔Section 47. KRS 146.990 is amended to read as follows:

- (1) Any person, corporation, city, county or other governmental subdivision who violates any of the provisions of KRS 146.200 to 146.360 shall be liable to a civil penalty of not more than one thousand dollars (\$1,000) for said violation and in addition may be enjoined from continuing said violation. Each day upon which such violation occurs or continues shall constitute a separate offense.
- (2) Any person who trespasses on private land within the boundary of a designated wild river shall be guilty of a Class B misdemeanor, and upon conviction shall be subject to a fine not to exceed five thousand dollars (\$5,000).
- (3) Violations of KRS 146.410 to 146.530 or of any rule or regulation adopted and published by the ~~office~~~~[commission]~~ pursuant to the provisions of KRS 146.410 to 146.530, shall be subject to the penalties and sanctions presently provided for in KRS Chapter 224 or as may be amended.

➔Section 48. KRS 149.346 is amended to read as follows:

- (1) If the cabinet has evidence that a violation of KRS 149.342(1) or 149.344(11) has occurred, or has deemed a logger or operator to be a bad actor under KRS 149.344(8), the cabinet shall serve written notice of the determination and the provision alleged to have been violated, and the cabinet shall require the person complained against to answer the charges at an administrative hearing to be held not less than twenty-one (21) days after the date of the notice, unless the person complained against waives the twenty-one (21) day period.
- (2) Any person not previously heard who considers himself aggrieved by any determination of the cabinet under KRS 149.330 to 149.355 may file a petition alleging that the determination is contrary to law or fact and is injurious to him, citing the grounds and reasons therefor, and demanding an administrative hearing. Unless the cabinet considers the petition frivolous, it shall schedule an administrative hearing before the cabinet not less than ninety (90) days after the date of the notice, unless the person complained against waives the ninety (90) day period, except that hearings requested under KRS 149.344(5) and (6) shall be held within five (5) working days of receipt of a petition. The right to demand a hearing under this subsection shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the determination complained of, or could have had notice. The cabinet shall be represented at the administrative hearing by the Office of **Legal Services**~~[General Counsel]~~.
- (3) All hearings under KRS 149.330 to 149.355 shall be conducted under KRS 224.10-440. Appeals may be taken from all final orders under KRS 224.10-470.

➔Section 49. KRS 149.348 is amended to read as follows:

- (1) Any operator or logger who is deemed by the cabinet to be a bad actor under KRS 149.344(8) or who violates KRS 149.342(1) or 149.344(11) may, after an opportunity for an administrative hearing, be assessed a civil penalty not to exceed one thousand dollars (\$1,000) for each violation. In determining the amount of the penalty, consideration shall be given to the operator's or logger's history of noncompliance; the seriousness of the violation and any damage caused, including any irreparable harm to the environment or hazard to public health or safety or the health and safety of animals, fish, or aquatic life; the degree of fault and whether the conduct was intentional or negligent; and the demonstrated good faith in remedying the pollution. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's Office of **Legal Services**~~[General Counsel]~~. All sums recovered shall be deposited in the Forest Stewardship Incentives Fund. The Circuit Court in the county in which the violation occurred shall have concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of KRS 149.330 to 149.355 or the orders and administrative regulations promulgated by the cabinet.

- (2) Notwithstanding KRS Chapters 271B to 275 or any other provision of law to the contrary, any director, officer, or agent of an operator or logger doing business as a partnership, corporation, association, society, joint stock company, firm, company, or business organization shall be personally liable, jointly and severally, for the civil penalties incurred by the operator or logger under this section.

➔Section 50. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

- (1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;
- (2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;
- (3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;
- (4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45A.045;
- (5) Collect water use fees from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;
- (6) Issue revenue bonds in accordance with KRS 151.730;
- (7) Employ persons to carry out the authority's responsibilities with revenue from the water use fees, including an executive director who shall serve at the pleasure of the authority;
- (8) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;
- (9) Promulgate administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;
- (10) Exercise all other powers necessary to perform its public purpose to implement and enforce the plans developed by the authority pursuant to this section and KRS 151.727 and 151.728, and to enforce administrative regulations promulgated by the authority. The long-range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority;
- (11) Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority, after consultation with the Energy and Environment Cabinet, shall develop a unified long-range water resource plan for the basin. The unified long-range water resource plan shall be implemented over short-range and long-range time periods. The short-range plan shall be for a period of six (6) years and the long-range plan shall be for a period of twenty (20) years. The authority shall conduct a public hearing on the plan prior to its adoption and amend the plan as appropriate based on the comments received. The Energy and Environment Cabinet shall review the draft unified plan and provide comment during the public comment period concerning the consistency of the plan with the state requirements under KRS Chapters 224 and 151. A drought response plan for the basin shall be developed by the authority and shall be coordinated with the Energy and Environment Cabinet to assure consistency with KRS Chapters 224 and 151, and this plan shall be implemented for the basin upon the direction of the authority;
- (12) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations may be promulgated implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;
- (13) Promote private investment in the installation of hydroelectric generating units on all existing constructed and reconstructed Kentucky River dams under the jurisdiction of the authority, by developing a standard lease, establishing reasonable financial responsibility requirements, verifying that the proposed installation of the hydroelectric unit will not adversely affect the structural integrity of the dam, and adopting a schedule of reasonable fees for water used in the generation of hydroelectric power;

- (14) Develop recreational areas within the basin. These recreational areas may be operated and funded by the state Department of Parks, *Office of Kentucky State Nature Preserves*~~[Commission]~~, or other governmental entity as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;
- (15) Utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for the repairs and no other funds are available for the maintenance;
- (16) Coordinate the Kentucky River basin water resources activities among state agencies;
- (17) Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue;
- (18) Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority;
- (19) Credit to the authority any income derived from the interest earned on the investment of the water use fees collected, which shall be available for the authority's expenditure; and
- (20) Accomplish the watershed management mission of the authority, which is to fulfill the provisions of this section for the Kentucky River basin, the boundary of which shall be defined by a hydrologic map promulgated in an administrative regulation.

➔Section 51. KRS 152.712 is amended to read as follows:

- (1) The *Office of Energy Policy*~~[Department for Energy Development and Independence]~~ in the Energy and Environment Cabinet shall:
 - (a) Oversee the implementation of Kentucky's comprehensive energy strategy;
 - (b) Provide leadership to enhance the benefits of energy efficiency and alternative energy through supporting awareness, technology development, energy preparedness, partnerships, and resource development;
 - (c) Enhance the economic opportunities and benefits to Kentucky citizens and industry through expansion of current markets and the development of market opportunities for Kentucky coal, natural gas, petroleum, oil shale, tar sands, liquid and gaseous fuels from coal, and chemicals from coal;
 - (d) To the extent funding is available, administer grant programs to support energy-related research, development, and demonstration, including the support of multistate cooperative regional partnerships and research initiatives;
 - (e) Develop and implement programs for the development, conservation, and utilization of energy in a manner to meet essential human needs while maintaining the Kentucky economy at the highest feasible level. The programs shall include:
 - 1. Central access for collection, maintenance, and analysis of data and information on all forms of energy supply, demand, conservation, and related subjects;
 - 2. Formulation of a contingency plan to address any energy shortage which may occur from time to time. The contingency plan shall relate to the curtailment, allocation, planning, and management of all forms of energy;
 - 3. Development and implementation of major energy conservation programs involving all sectors of the Kentucky economy, including energy audits of educational facilities and state-owned buildings; and
 - 4. Provision for the application of appropriate technologies with regard to alternative energy development, including the development of solar and other renewable resources and small-scale hydroelectric plants, and promotion, when feasible, of the production of energy from other resources such as solid waste and biomass;
 - (f) Provide technical assistance to the Finance and Administration Cabinet in implementing the Energy Efficiency in Government Buildings Program;
 - (g) Enter into agreements, administer grant programs, and serve as a liaison with the federal government and other states in matters relating to energy; and

- (h) Participate in the review of applications and, upon request of the authority, assist the Kentucky Economic Development Finance Authority in monitoring tax incentive agreements as provided in Subchapter 27 of KRS Chapter 154.
- (2) The department may establish reasonable application fees to offset costs associated with reviewing and processing applications, including costs associated with hiring outside consultants.
- (3) The department is encouraged to use state funding available to it as a match for federal or private funding to increase the resources available to support energy research and development.
- (4) The department is encouraged to explore and develop regional partnerships and cooperative research initiatives with other states and governmental entities to enhance resources available for energy research and development.

➔Section 52. KRS 152.713 is amended to read as follows:

- (1) For purposes of this section, "renewable energy" has the same meaning as in KRS 154.20-400.
- (2) The Center for Renewable Energy Research and Environmental Stewardship is hereby created.
- (3) The Center for Renewable Energy Research and Environmental Stewardship shall:
 - (a) Provide leadership, research, support, and policy development in renewable energy;
 - (b) Advance the goal of renewable energy;
 - (c) Promote technologies, practices, and programs that increase efficiency in energy utilization in homes, businesses, and public buildings;
 - (d) Emphasize energy policies that would result in cost-conscious, responsible development of Kentucky's energy resources and a commitment to environmental quality;
 - (e) Promote partnerships among the state's postsecondary education institutions, private industry, and nonprofit organizations to actively pursue federal research and development resources that are dedicated to renewable energy;
 - (f) Promote the continued development of public-private partnerships dedicated to promoting energy efficiency through education and outreach;
 - (g) Establish research priorities with approval of the board of directors created in subsection (4) of this section, relating to renewable energy, and develop procedures and processes for awarding research grants to eligible recipients as defined by the board and to the extent that funding is available;
 - (h) Collaborate with the *Office of Energy Policy*~~{Department for Energy Development and Independence}~~ to avoid duplication of efforts, provide appropriate data and information, and support the implementation of Kentucky's comprehensive energy strategy; and
 - (i) Carry out other activities to further the efficient and environmentally responsible use of renewable energy.
- (4) (a) There is hereby created a governing board of directors to provide policy direction, establish a strategic research agenda and operating policies, and provide financial and operational oversight for the Center for Renewable Energy Research and Environmental Stewardship. The initial board shall be appointed within sixty (60) days following July 15, 2008.
- (b) The board shall consist of thirteen (13) members:
 - 1. One (1) member to represent the *Office of Energy Policy*~~{Department for Energy Development and Independence}~~ as designated by its *executive director*~~{commissioner}~~;
 - 2. Three (3) members representing postsecondary education interests who shall be appointed by the Governor;
 - 3. One (1) member to be designated by the governing body of the Kentucky Science and Technology Corporation;
 - 4. One (1) member from an energy conservation organization who shall be appointed by the Governor;
 - 5. The secretary of the Economic Development Cabinet or the secretary's designee;

6. One (1) member who shall be a recognized consumer advocate to be appointed by the Governor;
 7. Three (3) members to represent companies that are focused on renewable energy who shall be appointed by the Governor;
 8. One (1) member who shall represent environmental interests to be appointed by the Governor; and
 9. One (1) member who shall be selected to represent local government interests to be appointed by the Governor.
- (c) The members appointed by the Governor shall serve two (2) year terms and may be reappointed. The members representing specific agencies shall serve for as long as the respective agencies determine appropriate.
- (5) The board shall:
- (a) Adopt operating procedures, including a meeting schedule;
 - (b) Meet at least quarterly;
 - (c) Select a chair and co-chair annually who may be reelected, not to exceed three (3) consecutive terms;
 - (d) Establish working groups or subcommittees of the board as the board determines is needed;
 - (e) Establish qualifications and job descriptions, set the compensation and benefits, and employ staff as it determines necessary to carry out its responsibilities under this section; and
 - (f) Provide an annual program and financial report to the Legislative Research Commission within ninety (90) days of the close of each fiscal year.

➔Section 53. KRS 152.714 is amended to read as follows:

From a list of potential sites developed by the ***Office of Energy Policy***~~{Department for Energy Development and Independence}~~ and suitable for development of alternative fuel facilities, gasification facilities, or renewable energy facilities as defined in KRS 154.27-010, the ***Office of Energy Policy***~~{Department for Energy Development and Independence}~~ may expend state funds for preliminary environmental and baseline assessments, inventories, and other activities on or for the potential sites in furtherance of environmental or other permitting required for the development of an eligible project.

➔Section 54. KRS 152.720 is amended to read as follows:

To ensure that Kentucky will lead the states in securing the energy independence of the United States and will consequently benefit from economic growth and stabilization of the Commonwealth's coal industry and agriculture, the ***Office of Energy Policy***~~{Department for Energy Development and Independence}~~ shall develop and implement a strategy for production of alternative transportation fuels and synthetic natural gas from fossil energy resources and biomass resources. The strategy shall address:

- (1) Technologies available or in use for producing alternative transportation fuels and synthetic natural gas from fossil energy resources and biomass resources and the relative advantages of these in terms of process efficiencies, environmental performance, and marketable products, including chemicals, industrial feedstocks, and electricity;
- (2) Research, demonstration, and commercial-scale construction and operation of one (1) or more technologies, and follow-up expansion;
- (3) The essential nature of efficient cooperation, coordination, and synergy between the efforts of the ***Office of Energy Policy***~~{Department for Energy Development and Independence}~~ and those of Kentucky's public and private colleges and universities in order to maximize Kentucky's opportunities to access federal funds and to receive research grants and awards from federal and other sources to fund the development of clean coal technology, coal-to-liquid-fuel conversion, synthetic natural gas, alternative transportation fuels, and biomass resources;
- (4) The identification of federal funds available for research, development, construction, and operation of alternative transportation fuels or synthetic natural gas plants at laboratory, demonstration, and commercial scale;
- (5) Establishment of a major federal energy research laboratory in Kentucky;

- (6) Industry participation, both by single firms and by consortia, in research, development, construction, and operation of alternative transportation fuels or synthetic natural gas plants;
- (7) Establishment or expansion of Kentucky state government incentives for development, construction, or operation of alternative transportation fuels and synthetic natural gas production facilities, including but not limited to financial incentives, tax incentives, mandating or providing incentives for use of alternative transportation fuels and synthetic natural gas by state government, school districts, or utilities, authority to issue bonds, and acquisition and preliminary environmental assessment of industrial sites; and
- (8) Development of incentives to encourage energy conservation and renewable fuel and energy use and deployment of renewable energy, including solar power, wind power, hydropower, and other sources.

➔Section 55. KRS 154.27-030 is amended to read as follows:

- (1) A company with an eligible project may submit an application for incentives to the authority prior to making any capital investment it will seek to recover.
- (2) The application shall include:
 - (a) The name of the applicant and identification of any affiliates of the applicant;
 - (b) The type of eligible project;
 - (c) A description of the location;
 - (d) A full description of the eligible project scope, including but not limited to:
 - 1. A list and the status of permits, certificates, or approvals required by the federal government, the Commonwealth, or any jurisdiction within the Commonwealth;
 - 2. A description of the carbon capture readiness of the facility, if the proposed eligible project is an alternative fuel facility or a gasification facility;
 - 3. Any feasibility studies, including supporting documents;
 - 4. Anticipated sources of eligible project funding;
 - 5. The total anticipated capital investment and the time period over which the capital investment will occur;
 - 6. The proposed feedstock and the estimated volume of feedstock use per year;
 - 7. A description of the proposed products to be produced by the facility and the process that will be used to produce the products;
 - 8. The planned capacity of the facility after construction, retrofit, or upgrade;
 - 9. The estimated output of the facility upon completion; and
 - 10. A plan for and description of how the company will employ Kentucky residents at the facility and how the company will ensure, to the extent possible, that workers employed during construction, retrofit, or upgrade of the facility are Kentucky residents. The plan shall include projected numbers;
 - (e) Identification of the specific incentives sought;
 - (f) Payment of any applicable application fees required by the authority to offset reasonable costs of reviewing and processing the application; and
 - (g) Other information as required by the authority.
- (3) The authority shall forward the application to the Department of Revenue and the **Office of Energy Policy** ~~[Department for Energy Development and Independence]~~ for review and comment with a date by which comments shall be provided back to the authority. The authority may forward the application to the Center for Applied Energy Research for review and comment as well.
- (4) (a) The authority shall review the application and shall verify that:
 - 1. The applicant has met all of the statutory and regulatory requirements established by this subchapter and regulations promulgated thereunder;

2. The applicant has secured or is in the process of securing all necessary permits, certificates, or approvals required by the federal government, the Commonwealth, or any jurisdiction within the Commonwealth;
 3. The proposed facility is carbon capture ready, if the proposed facility is an alternative fuel facility or gasification facility;
 4. The company has a plan that includes a projected number of Kentucky residents that will be employed during the construction, retrofit, or upgrade of the facility and at the facility upon completion; and
 5. Any other requirements established by the authority.
- (b) The Department of Revenue and the ***Office of Energy Policy***~~{Department for Energy Development and Independence}~~ shall review the application and shall verify that the company seeking approval and all affiliate companies are in good standing with the department.
- (c) The authority may engage the services of outside consultants to assist in the review of the application. Costs associated with the engagement of outside consultants shall be borne by the applicant.
- (5) (a) Upon the earlier of:
1. The receipt of comments and recommendations from the ***Office of Energy Policy***~~{Department for Energy Development and Independence}~~, the Department of Revenue, and the Center for Applied Energy Research, if applicable; or
 2. The expiration of the time period established by the authority for receiving comments pursuant to subsection (3) of this section;
- the authority may, through the adoption of a resolution, preliminarily approve an applicant for incentives under this subchapter.
- (b) Preliminary approval shall be based upon representations of the applicant in the application and attachments as well as other information submitted with the application. The authority shall make a finding that, based upon the applicant's representations, the project appears to be eligible for incentives pursuant to this subchapter.
- (c) Prior to final approval:
1. The applicant shall:
 - a. Provide all supportive data requested by the authority;
 - b. Secure all required permits or take appropriate steps to do so; and
 - c. Cooperate with the authority to obtain opinions or recommendations from any outside consultants; and
 2. The authority shall, in consultation with the ***Office of Energy Policy***~~{Department for Energy Development and Independence}~~ or any other entity, verify the representations of the applicant.
- (d) 1. A preliminarily approved company seeking an advance disbursement employment incentive under KRS 154.27-090 shall, prior to receiving final approval from the authority, provide to the authority a labor market analysis prepared by a public postsecondary education institution in the Commonwealth with knowledge of the labor market in the region in which the eligible project will be located.
2. The labor market analysis shall evaluate the construction market in the region where the proposed project is to be located and the estimated labor component of the proposed project. The public postsecondary education institution may consult with the Center for Applied Energy Research or the ***Office of Energy Policy***~~{Department for Energy Development and Independence}~~ in determining the types of laborers required for the construction, retrofit, or upgrade of the eligible facility.
3. The labor market analysis shall include an estimate of the percentage of the estimated labor component that constitutes wages to be paid to Kentucky residents.

- (e) Based upon all of the information available, the authority may, through adoption of a resolution, give its final approval and authorize the execution of a tax incentive agreement to be negotiated pursuant to KRS 154.27-040.
- (6) The authority may request any materials and make any inquiries concerning an application that the authority deems necessary.
- (7) The actual capital investment that may be recovered and percentages of each incentive that an approved company may receive shall be negotiated between the approved company and the authority and shall not exceed the limitations established by KRS 154.27-020.
- (8) The General Assembly recognizes that the incentives offered under this subchapter include the possibility of the release of incentives to approved companies prior to construction completion, and that the release of these incentives may present more risk for the Commonwealth. The authority is directed to consider the possible increased risk to the Commonwealth when negotiating tax incentive agreements that include incentives prior to construction completion, and to incorporate repayment or similar remedy provisions in the tax incentive agreement to the extent the authority determines such provisions are necessary to protect the investment made by the Commonwealth if the approved company fails to comply with the terms of the tax incentive agreement.
- (9) The authority and the approved company shall enter into a tax incentive agreement in accordance with KRS 154.27-040.
- (10) The authority, with input from the *Office of Energy Policy*~~[Department for Energy Development and Independence]~~ and the Department of Revenue, shall establish additional standards and requirements for the application process through the promulgation of administrative regulations in accordance with KRS Chapter 13A. The standards shall include but not be limited to the creditworthiness of eligible companies and the likelihood of economic success of the economic development project.
- (11) Notwithstanding any other provision of this subchapter, the authority may approve a maximum of five (5) projects under this subchapter that involve an alternative fuel facility located in Kentucky that:
 - (a) Is newly constructed on or after August 1, 2010, or an existing facility located in Kentucky that is retrofitted or upgraded on or after August 1, 2010;
 - (b) After the new construction, retrofit, or upgrade, primarily produces for sale alternative transportation fuels using natural gas or natural gas liquids as the primary feedstock; and
 - (c) Has a minimum capital investment of one million dollars (\$1,000,000).

➔Section 56. KRS 154.27-040 is amended to read as follows:

The terms and conditions of the tax incentive agreement shall be negotiated between the authority and the approved company. The tax incentive agreement may include one (1) or more of the incentives available under this subchapter or any combination of the incentives as negotiated between the authority and the approved company. The tax incentive agreement shall include but not be limited to the following provisions:

- (1) The duties and responsibilities of the parties;
- (2) The specific identification of incentives included in the tax incentive agreement, including the permissible percentage recovery under each included incentive;
- (3) A detailed description of the eligible project, including an estimate of the capital investment;
- (4) If the eligible project is an alternative fuel facility or a gasification facility, a requirement that the facility be carbon capture ready;
- (5) The minimum capital investment required and the maximum capital investment that may be recovered;
- (6) The time within which the minimum capital investment shall be made;
- (7) The activation date and the termination date. The agreement shall commence on the activation date and shall terminate upon the earlier of full receipt of the maximum amount of incentives by the approved company or twenty-five (25) years from the activation date;
- (8) A target percentage of the workforce that is Kentucky residents during the construction, retrofit, or upgrade of the facility, and at the facility upon completion of construction;
- (9) If the wage assessment permitted by KRS 154.27-080 is included, the percentage rate at which the assessment shall be imposed;

- (10) If the advance disbursement employment incentive permitted by KRS 154.27-090 is included:
- (a) The estimated labor component and the estimated Kentucky resident factor as determined under KRS 154.27-090;
 - (b) A schedule for the disbursement of funds during the construction period;
 - (c) A provision that requires a reduction or adjustment in the receipt of post-construction incentives for which the approved company is eligible under the tax incentive agreement until the advance disbursement has been repaid by the approved company;
 - (d) A provision addressing an alternate payment method if the incentives are not sufficient to repay the advance disbursement; and
 - (e) A repayment schedule that includes the amount of reduction, the incentives the reduction shall apply to, the amount of interest due, the time period over which the advance disbursement amount shall be recouped, and the amount that shall be recouped in each year. To the extent possible, the repayment schedule shall include uniform incremental payments;
- (11) That the approval of the company is not a guarantee of incentives and that actual receipt of the incentives shall be contingent on the approved company filing the required requests for incentives and meeting the requirements established by the tax incentive agreement and by KRS 139.517, 141.421, 143.024, 154.27-060, 154.27-070, 154.27-080, and 154.27-090 that apply to the incentives included;
- (12) That the approved company shall provide the authority with documentation of capital expenditures in a manner acceptable to the authority;
- (13) Negotiated terms relating to repayment or similar remedies for incentives received prior to the completion of construction if the approved company fails to comply with the terms of the tax incentive agreement;
- (14) That, if the authority determines that the approved company has failed to comply with any of its obligations under the tax incentive agreement:
- (a) The authority shall have the right to suspend the incentives available to the approved company;
 - (b) Both the authority and the department shall have the right to pursue any remedy provided under the tax incentive agreement;
 - (c) The authority may terminate the tax incentive agreement; and
 - (d) Both the authority and the department may pursue any other remedy at law to which it may be entitled;
- (15) A requirement that the authority monitor the tax incentive agreement;
- (16) A requirement that the approved company provide to the authority the information necessary to monitor the tax incentive agreement and authorization for the authority to share that information with the Department of Revenue, the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~, or any other entity the authority determines is necessary for the purposes of monitoring and enforcing the terms of the tax incentive agreement; and
- (17) Any other provisions not inconsistent with this subchapter and determined to be necessary or appropriate by the parties to the tax incentive agreement.

➔Section 57. KRS 154.27-050 is amended to read as follows:

- (1) The department may release to an approved company any sales tax incentives under KRS 139.517 and 154.27-070 after review of the request for incentives required by KRS 139.517 and determination of the amount due regardless of whether the minimum capital investment has been made as required by the tax incentive agreement.
- (2) The authority shall monitor all tax incentive agreements. The authority may seek assistance from the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~, the Department of Revenue, the Center for Applied Energy Research, or other entities or individuals in performing its monitoring functions.
- (3) The department shall track the amount of revenues released and incentives received for each eligible project under each tax incentive agreement and shall provide the authority the information upon request.
- (4) By November 1 of each year, the authority and the department shall jointly prepare a report for the Governor and the Legislative Research Commission, as required in KRS 154.12-2035. The report shall include a list of

all companies with which tax incentive agreements have been entered into and a summary of the terms of each agreement, including the type of facility approved, product to be produced, estimated output upon completion, required minimum capital investment and maximum recovery, incentives approved by type of tax and amount, activation date, and termination date.

➔Section 58. KRS 154.27-090 is amended to read as follows:

- (1) An approved company may be eligible for the advance disbursement of a portion of the post-construction period incentives for which it has been approved. The amount of the advance disbursement shall be based on the employment of Kentucky residents during the construction of the facility, shall be negotiated with the authority as part of the tax incentive agreement, and shall not exceed the limitations established by this section.
- (2) The authority shall compute the maximum amount of the advance disbursement employment incentive as follows:
 - (a) The base amount shall equal the total capital investment specified in the tax incentive agreement multiplied by the labor intensity factor as determined in paragraph (c) of this subsection;
 - (b) The base amount shall then be multiplied by the Kentucky resident factor as determined in paragraph (d) of this subsection. The resulting amount shall be the maximum advance disbursement employment incentive that the authority may approve;
 - (c) The labor intensity factor shall be:
 1. Twenty-five percent (25%), if the estimated labor component for the eligible project is greater than thirty percent (30%) of the total capital investment;
 2. Twenty percent (20%), if the estimated labor component for the eligible project is greater than twenty-five percent (25%) but less than or equal to thirty percent (30%) of the total capital investment; or
 3. Fifteen percent (15%), if the estimated labor component for the eligible project is equal to or less than twenty-five percent (25%) of the total capital investment; and
 - (d) The Kentucky resident factor shall be four percent (4%) multiplied by a fraction, the numerator of which shall be the estimated total gross wages that will be paid to Kentucky residents who are working on the construction, retrofit, or upgrade of the eligible project, and the denominator of which shall be the estimated total gross wages that will be paid to all workers working on the construction, retrofit, or upgrade of the eligible project.
- (3) The tax incentive agreement shall include a schedule for the disbursement of the advance disbursement employment incentive during the construction period. In negotiating the disbursement schedule, the authority shall consider the possible increased risk to the Commonwealth associated with the disbursement of funds prior to construction completion.
- (4)
 - (a) The approved company shall repay the advance disbursement through a reduction in the post-construction period incentive amounts it would otherwise receive. The amount by which the post-construction period incentive amounts are reduced shall be applied as a credit against the amount owed by the approved company.
 - (b) The amount of the annual reduction, the incentives the reduction shall apply to, interest due, the time period over which the advance disbursement amount shall be recouped, and alternate payment methods if incentives are not sufficient to repay the advance disbursement shall be negotiated between the authority and the approved company as part of the tax incentive agreement.
 - (c) The repayment schedule included in the tax incentive agreement shall require uniform incremental payments, to the extent possible, and shall continue until the entire advance disbursement amount has been repaid by the approved company.
 - (d) The tax incentive agreement shall include a provision addressing an alternate method for payment if incentives are not sufficient to repay the advance disbursement.
 - (e) The total post-construction incentive payments for which an approved company is eligible shall be tracked by the department. That portion of the incentive amounts identified in the tax incentive agreement as being devoted to the repayment of the advance disbursement amount shall be credited against the balance due from the approved company and shall not be paid to or retained by the approved company.

- (f) The department shall forward the amounts credited to the repayment of the advance disbursement amount to the Cabinet for Economic Development, Department of Financial Incentives for deposit in the Energy Projects Economic Development Bond Pool.
 - (g) During the period for which any portion of the post-construction incentive payments are being credited toward the advance disbursement amount, the approved company shall, at the direction of the authority or the department, file all required requests for incentives, submit all required remittances, make all required tax payments, and provide to the department and the authority any information that would normally be required for the approved company to receive the incentives.
- (5) The authority may, for purposes of administering the provisions of this section, solicit information or consultation from one (1) or more of the following sources:
- (a) The *Office of Energy Policy* ~~[Department for Energy Development and Independence]~~;
 - (b) The Center for Applied Energy Research;
 - (c) The Department for Workforce Investment; or
 - (d) Any public postsecondary education institution within the Commonwealth.

➔Section 59. KRS 157.455 is amended to read as follows:

- (1) As used in this section:
- (a) "Life-cycle cost analysis" means to calculate and compare different building designs to identify which is the best investment over the long term. Life-cycle costs include design and construction costs, operating costs, maintenance costs, and repair and replacement costs, adjusted for the time value of money;
 - (b) "Net zero building" means a building in which the amount of energy provided by on-site renewable energy sources is equal to the amount of energy used by the building; and
 - (c) "Efficient school design" means a school building design:
 1. That meets, at a minimum, the requirements of the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) for schools at the "Certified" level or certification under a comparable system with equivalent requirements or other building performance certification systems, such as the United States Department of Energy's Energy Star program;
 2. That ensures energy savings from a building design that equates to or exceeds ten percent (10%) over the American Society of Heating, Refrigerating, and Air Conditioning Engineers energy standard 90.1-2007; and
 3. For which whole building life-cycle cost analysis illustrates that the design is cost-effective.
- (2) The General Assembly hereby finds that schools that are constructed or renovated using efficient school design are proven effective vehicles for accomplishing some or all of the following beneficial public purposes:
- (a) Lower operating costs and increased asset value;
 - (b) Reduced waste sent to landfills;
 - (c) Conservation of energy and water;
 - (d) Reduced storm drainage runoff;
 - (e) Healthier, safer environments for occupants;
 - (f) Reduced emissions of greenhouse gases; and
 - (g) Improved student attendance and performance by:
 1. Using the building as a teaching tool;
 2. Using the local environment as a context for curriculum integration;
 3. Providing rigorous, highly relevant, and applied learning; and
 4. Improving productivity by making buildings healthier for occupants, especially through the increased use of natural light.

- (3) The Kentucky Department of Education and all school districts undertaking the construction of new school buildings or the major renovation of existing school buildings are strongly encouraged to:
- (a) Meet or exceed efficient school design standards in planning and designing all new buildings and major renovation projects;
 - (b) Use life-cycle cost analysis to evaluate different design proposals; and
 - (c) Consider the possibility that each new school building or major renovation of a building could be a net zero building, either during the construction or renovation, or at a later date as resources become available.
- (4) (a) The Kentucky efficient school design trust fund is hereby created as a restricted account to be administered by the Department of Education.
- (b) The account may receive contributions, gifts, donations, appropriations, and any other moneys made available for the account. Notwithstanding KRS 45.229, any moneys remaining in the account at the close of a fiscal year shall not lapse, but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in this section. Interest on moneys in the account shall accrue to the account.
- (c) Moneys in the account shall be used to offset the initial additional cost, if any, associated with the construction or renovation of school buildings using efficient school design.
- (d) The Kentucky Board of Education shall promulgate administrative regulations pursuant to KRS Chapter 13A to prescribe how a local school district may qualify for and use funds from the account created by this subsection.
- (5) The Department of Education shall develop and adopt guidelines for efficient school design, net zero buildings, and life-cycle cost analysis, including the identification of appropriate computer-based simulation programs for use in undertaking life-cycle cost analysis.
- (6) The Department of Education and the ***Office of Energy Policy***~~[Department for Energy Development and Independence]~~ shall assist school districts in:
- (a) Developing methods for measuring ongoing operating savings resulting from the use of efficient school design;
 - (b) Identifying sources for training for school staff and students to ensure that efficient school design features and components are fully utilized; and
 - (c) Identifying ways that efficient school design and its energy-saving components can be integrated into the school curriculum.
- (7) The Department of Education and the ***Office of Energy Policy***~~[Department for Energy Development and Independence]~~ shall, by November 1, 2010, and each year thereafter, for the fiscal year ending on June 30 of that year, prepare a report that shall be submitted to the Legislative Research Commission and the Governor. The report shall address new school buildings or building renovations and shall include but not be limited to the following:
- (a) An assessment of the implementation of efficient school design within Kentucky's education system;
 - (b) Documented energy savings from any buildings built using efficient school design or net zero school buildings in operation;
 - (c) A list of the new or renovated school buildings completed or identified for future construction during the prior year using efficient school design, including the name of the school district, name of the school, total project cost, additional cost or savings, if any, associated with efficient school design features, and efficient school design features included in the project;
 - (d) A list of all school buildings that operate as a net zero building, and school buildings which school districts plan to convert to net zero. The list shall include the name of the school district, the name of the school, the total cost associated with the school building becoming a net zero building, and the components that will be installed to make the building a net zero building;
 - (e) Any recommendations relating to efficient school design; and

- (f) A list of new school buildings completed during the prior year without using efficient school design and an explanation of why efficient school design was not used.

➔Section 60. KRS 160.325 is amended to read as follows:

- (1) In an effort to reduce the rising energy costs that are straining school budgets, on or before January 1, 2010, each board of education shall enroll in the Kentucky Energy Efficiency Program that is offered by the Kentucky Pollution Prevention Center at the University of Louisville in order to obtain information regarding the potential energy savings for every board-owned and board-operated facility.
- (2) The Kentucky Pollution Prevention Center may prioritize the provision of assistance and development of energy management plans based upon available resources.
- (3) On or before December 1, 2011, and on or before December 1 of each year thereafter, the Kentucky Pollution Prevention Center shall file a report for the preceding fiscal year with the **Office of Energy Policy**~~Department for Energy Development and Independence~~ and the Legislative Research Commission. The report shall include:
 - (a) The number of boards of education enrolled in the Kentucky Energy Efficiency Program;
 - (b) The status of the development of energy management plans by those boards of education and anticipated savings to be obtained by those plans; and
 - (c) The amount and disposition of grants provided by the **Office of Energy Policy**~~Department for Energy Development and Independence~~ and any state appropriations for support of the Kentucky Energy Efficiency Program.

➔Section 61. KRS 224.10-020 is amended to read as follows:

- (1) There is established within the cabinet a Department for Natural Resources, a Department for Environmental Protection, and **an Office of Energy Policy**~~a Department for Energy Development and Independence~~. Each department shall be headed by a commissioner, **and each office shall be headed by an executive director. Commissioners and executive directors shall be** appointed by the secretary with the approval of the Governor as required by KRS 12.050. **Both**~~The~~ commissioners **and executive directors** shall be directly responsible to the secretary and shall perform ~~the~~~~such~~ functions, powers, and duties as provided by law and as **prescribed** ~~by the secretary~~~~may prescribe~~.
- (2) There is established within the Department for Natural Resources a Division of Forestry, a Division of Conservation,~~a Division of Technical and Administrative Support,~~ a Division of Mine Reclamation and Enforcement, a Division of Mine Permits, a Division of Abandoned Mine Lands, a Division of Oil and Gas, a Division of Mine Safety, and an Office of the Reclamation Guaranty Fund.~~The Kentucky Mining Board is attached to the Department for Natural Resources for administrative purposes.~~ Each division shall be headed by a director, and each office shall be headed by an executive director. Directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050, except for the director of the Division of Conservation, who shall be appointed in accordance with KRS 146.100. Both directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.
- (3) There is established within the Department for Environmental Protection a Division of Water, a Division for Air Quality, a Division of Waste Management, a Division of Enforcement, a Division of Compliance Assistance, and a Division of Environmental Program Support. Each division shall be headed by a director appointed by the secretary with the approval of the Governor as required by KRS 12.050. Directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.
- (4) There is established within the **Office of Energy Policy**~~Department for Energy Development and Independence~~ a Division of Energy Assistance~~Efficiency and Conservation, a Division of Renewable Energy, a Division of Biofuels, a Division of Energy Generation, Transmission and Distribution, a Division of Carbon Management, and a Division of Fossil Energy Development~~. ~~The~~~~Each~~ division shall be headed by a director. ~~The director~~~~Directors~~ shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050.

➔Section 62. KRS 224.10-022 is amended to read as follows:

There is established in the Office of the Secretary an Office of Administrative Hearings, **an Office of Communication**, and an Office of Legislative and Intergovernmental Affairs. Each of these offices shall be headed

by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. There is also established in the Office of the Secretary an Office of **Legal Services**~~[General Counsel]~~, headed by **an executive director**~~[a general counsel]~~ appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210. The executive directors~~[and the general counsel]~~ shall be directly responsible to the secretary and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary. ***There is established in the Office of Legal Services a Legal Division I and Legal Division II. Each of these divisions shall be headed by a general counsel appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210. The general counsels shall be directly responsible to the executive director of the Office of Legal Services and shall perform the functions, powers, and duties as provided by law and as prescribed by the executive director.*** The Office of Kentucky~~[State]~~ Nature Preserves~~[Commission]~~, which shall be headed by **an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210**~~[a director]~~, and the Mine Safety Review Commission, whose members shall be appointed by the Governor with the consent of the General Assembly, shall be attached to the Office of the Secretary. The Kentucky Public Service Commission, which shall be headed by an executive director appointed by the commission in accordance with KRS 278.100, shall be attached to the Office of the Secretary for administrative purposes.

➔Section 63. KRS 247.920 is amended to read as follows:

- (1) Application for an alcohol production exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the Department of Revenue for the proper administration of KRS 247.910 and this section. The **Office of Energy Policy**~~[Department for Energy Development and Independence]~~ shall provide technical assistance and factual information as requested in writing by the Department of Revenue. If the Department of Revenue finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before issuing an alcohol production tax exemption certificate, the Department of Revenue shall give notice in writing by mail to the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~, and shall afford to the applicant and to the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~ an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:
 - (a) The certificate was obtained by fraud or misrepresentation;
 - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or
 - (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.
- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
- (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~. The applicant or holder and the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~ shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.
- (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky Claims Commission pursuant to KRS 49.220.

- (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~ and the Department of Revenue.
- (8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the **Office of Energy Policy**~~[Department for Energy Development and Independence]~~ and to the Department of Revenue.
- (9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

➔Section 64. KRS 353.5901 is amended to read as follows:

- (1) A well operator shall submit to the department an operations and reclamation plan at the time of filing an application for permit to drill, deepen, or reopen a well. The plan shall be filed on forms provided by the department and shall include:
 - (a) A narrative description of those best management practices intended to be employed to prevent pollution, erosion, and sedimentation from the well site and all disturbed areas, including roads. The description shall be updated when the best management practices utilized on site differ from those described in the plan;
 - (b) A narrative description of the location of all areas to be disturbed, including the location of roads, gathering lines, the well site, tanks and other storage facilities, and any other information that may be required by the department. Accompanying this narrative description shall be a plat depicting the location on the land of all of these disturbances or facilities; and
 - (c) Any additional information that the department may require.
- (2) The plan shall include at a minimum a narrative describing the following categories:
 - (a) Site plans;
 - (b) Construction practices to be used;
 - (c) Reclamation methods to be used after well completion;
 - (d) Maintenance of the reclaimed site; and
 - (e) Site closure describing plugging, abandonment, and reclamation procedures.
- (3) The department shall review and approve the operations and reclamation plan prior to permit issuance in cases where there has not been a severance of the ownership of the oil and gas from the ownership of the surface to be disturbed.
- (4) In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface and the surface owners of all disturbed areas have not signed agreements with the well operator agreeing to the operations and reclamation plan, at the time of filing the application the well operator shall cause to be delivered to the surface owners of all disturbed areas who have not agreed to the operations and reclamation plan, by certified mail, return receipt requested:
 - (a) A copy of the operations and reclamation plan required by paragraph (a) of subsection (1) of this section, and the narrative description of land disturbances and plat required by paragraph (b) of subsection (1) of this section; and

- (b) A notice to read as follows: "If you do not agree with the proposed use of your land by the well operator, the well operator may request mediation of your dispute by the ***Office of Legal Services of the Energy and Environment Cabinet***~~[General Counsel's Office of the Department for Natural Resources]~~. If mediation is requested, and you decide to participate, each party to the mediation will be charged one hundred dollars (\$100) to help cover the cost of mediation. You will be notified of the time and place for mediation, if the well operator chooses mediation, and of your right to participate."

The certified mail receipt, when returned, shall be filed by the well operator with the department and made part of the permit application.

- (5) If the well operator has been unable to reach agreement with the surface owners of all areas to be disturbed in all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, the permit required by this chapter shall not be issued until the dispute has been referred to mediation by the ***Office of Legal Services of the Energy and Environment Cabinet***~~[General Counsel's Office of the Department for Natural Resources]~~, and mediation has been concluded either by agreement between the parties or by a report of the mediator, in accordance with subsection (6) of this section.
- (6) The well operator may request mediation any time after filing the permit application, and all parties participating in the mediation shall pay a nonrefundable fee of one hundred dollars (\$100) to the Kentucky State Treasurer, which shall be for the sole use of the department and shall be in addition to any money appropriated by the General Assembly for the use of the department. The department may waive the mediation fee for surface owners who submit verifiable proof of financial inability to pay. The department shall notify the well operator and all surface owners of areas to be disturbed by drilling who have not agreed to the operation and reclamation plan of the date and time mediation shall be conducted by certified mail, return receipt requested. The department shall conduct mediation at the site proposed to be disturbed within fifteen (15) days from the date requested, if practicable. At the mediation, the mediator will attempt to facilitate an agreement between the well operator and the surface owner. If an agreement is not forthcoming after mediation, the mediator shall, within five (5) days after mediation, issue a report to the director of the Division of Oil and Gas recommending that the director:
- (a) Accept the plan as submitted by the well operator; or
 - (b) Accept the plan with modifications set forth by the mediator.
- (7) If an agreement between the well operator and the surface owners of all disturbed areas is not forthcoming after mediation, the mediator shall consider the following factors as to the reasonable use of the surface by the well operator in issuing a report to the director:
- (a) The location of roads, gathering lines, and tank batteries;
 - (b) The timing of the operation, considering seasonal uses of the land by the surface owner and the need of the well operator to drill expeditiously;
 - (c) The impact on the other uses of the land by the surface owner, including the location of timber, houses, barns, ponds, crops, and other improvements;
 - (d) Whether the plan includes a plan for timely, effective reclamation of all disturbed areas; and
 - (e) Any other information deemed appropriate by the mediator.
- (8) The director shall act upon the recommendation of the mediator within five (5) days of the receipt of the mediation report.

➔Section 65. The following KRS section is repealed:

146.425 Kentucky Nature Preserves Commission.

➔Section 66. The records, staff, property, and unexpended balances of appropriations, allocations, and other funds, including functions of budgeting and purchasing of the Kentucky State Nature Preserves Commission created under KRS 146.425 and repealed by Section 65 of this Act are transferred to the Office of Kentucky Nature Preserves created under Section 23 of this Act. All rules, decisions, and actions adopted, made, or taken by the Kentucky State Nature Preserves Commission that have not been repealed or rescinded shall continue in effect until repealed or rescinded by the Office of Kentucky Nature Preserves.

Signed by Governor March 27, 2018.

CHAPTER 30**(HB 213)**

AN ACT relating to data-sharing of prescription drug monitoring information.

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

➔Section 1. KRS 218A.245 is amended to read as follows:

- (1) The secretary of the Cabinet for Health and Family Services may enter into reciprocal agreements or a contract, either directly with any other state or states of the United States *or any jurisdiction, county, or political subdivision thereof*, or with an organization administering the exchange of interstate data on behalf of the prescription monitoring program of one (1) or more states *or jurisdictions*, to share prescription drug monitoring information if the other ~~[state's]~~ prescription drug monitoring program or ~~[the organization's]~~ data exchange program is compatible with the program in Kentucky. If the secretary elects to evaluate the prescription drug monitoring program of another state, *jurisdiction*, or organization as authorized by this section, priority shall be given to a state *or jurisdiction* that is contiguous with the borders of the Commonwealth or an organization that offers connectivity with a contiguous state *or jurisdiction*.
- (2) In determining compatibility, the secretary shall consider:
 - (a) The essential purposes of the program and the success of the program in fulfilling those purposes;
 - (b) The safeguards for privacy of patient records and its success in protecting patient privacy;
 - (c) The persons authorized to view the data collected by the program;
 - (d) The schedules of controlled substances monitored;
 - (e) The data required to be submitted on each prescription or dispensing;
 - (f) Any implementation criteria deemed essential for a thorough comparison; and
 - (g) The costs and benefits to the Commonwealth in mutually sharing particular information available in the Commonwealth's database with the program under consideration.
- (3) The secretary shall review any agreement on an annual basis to determine its continued compatibility with the Kentucky prescription drug monitoring program.
- (4) The secretary shall prepare an annual report to the Governor and the Legislative Research Commission that summarizes any agreement under this section and that analyzes the effectiveness of that agreement in monitoring the prescribing and dispensing of controlled substances in the Commonwealth.
- (5) Any agreement between the cabinet and another state, *jurisdiction*, or organization shall prohibit the sharing of information about a Kentucky resident, practitioner, pharmacist, or other prescriber or dispenser for any purpose not otherwise authorized by this section or KRS 218A.202.

Signed by Governor March 28, 2018.

CHAPTER 31**(HB 264)**

AN ACT relating to reorganizations.

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

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

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or

any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

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

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

II. Program cabinets headed by appointed officers:

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

1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.
- (e) Office of Technology Services.
- (f) Office of Educational Programs.
- (g) Office for Education and Workforce Statistics.
- (h) Board of the Kentucky Center for Education and Workforce Statistics.
- (i) Board of Directors for the Center for School Safety.
- (j) Department of Education.
 1. Kentucky Board of Education.
 2. Kentucky Technical Education Personnel Board.
- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 3. Office of Administrative Hearings.

4. Mine Safety Review Commission.
5. Kentucky State Nature Preserves Commission.
6. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (e) *Office of Administrative Services.*
 1. *Division of Human Resources Management.*
 2. *Division of Financial Management.*
 3. *Division of Information Services.*
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.

- c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
- 3. ***Office of Administrative Services.***
 - a. ***Division of Human Resources.***
 - b. ***Division of Fiscal Responsibility.***
- (b) Kentucky Claims Commission.
- (c) Kentucky Boxing and Wrestling Commission.
- (d) Kentucky Horse Racing Commission.
 - 1. Office of Executive Director.
 - a. Division of Pari-mutuel Wagering and Compliance.
 - b. Division of Stewards.
 - c. Division of Licensing.
 - d. Division of Enforcement.
 - e. Division of Incentives and Development.
 - f. Division of Veterinary Services.
- (e) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
- (f) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (g) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (h) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (i) Department of Insurance.
 - 1. Division of Insurance Product Regulation.
 - 2. Division of Administrative Services.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Division of Consumer Protection.

- 7. Division of Kentucky Access.
- (j) Department of Professional Licensing.
 - 1. Real Estate Authority.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. ~~{Division of Management Services}~~.
 - 2. ~~{Office of General Counsel}~~.
 - a. Workplace Standards Legal Division.
 - b. Workers' Claims Legal Division.
 - 2. ~~{(b)} Office of *Administrative* {General Administration and Program Support for Shared} Services.~~
 - a. ~~{1-}~~ Division of Human *Resources* ~~{Resource}~~ Management.
 - b. ~~{2-}~~ Division of Fiscal Management.
 - c. ~~{3-}~~ Division of *Professional Development and Organizational Management* ~~{Budgets}~~.
 - d. ~~{4-}~~ Division of Information *Technology and Support* Services.
 - 3. ~~{(c)} Office of Inspector General {for Shared Services}~~.
 - (b) ~~{(d)}~~ Department of Workplace Standards.
 - 1. Division of Apprenticeship.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of Wages and Hours.
 - (c) ~~{(e)}~~ Department of Workers' Claims.
 - 1. Division of Workers' Compensation Funds.
 - 2. Office of Administrative Law Judges.
 - 3. Division of Claims Processing.
 - 4. Division of Security and Compliance.
 - 5. Division of Information Services.
 - 6. Division of ~~{Ombudsman and Workers' Compensation}~~ Specialist *and Medical* Services.
 - 7. Workers' Compensation Board.
 - (d) ~~{(f)}~~ Workers' Compensation Funding Commission.
 - (e) ~~{(g)}~~ Occupational Safety and Health Standards Board.
 - (f) ~~{(h)}~~ Apprenticeship and Training Council.
 - (g) ~~{(i)}~~ State Labor Relations Board.
 - (h) ~~{(j)}~~ Employers' Mutual Insurance Authority.
 - (i) ~~{(k)}~~ Kentucky Occupational Safety and Health Review Commission.
 - (j) ~~{(l)}~~ Workers' Compensation Nominating Committee.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.

2. Office of Project Delivery and Preservation.
3. Office of Highway Safety.
4. Highway District Offices One through Twelve.
- (b) Department of Vehicle Regulation.
- (c) Department of Aviation.
- (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
- (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.

- (f) Office of the Ombudsman.
- (g) Office of Finance and Budget.
- (h) Office of Human Resource Management.
- (i) Office of Administrative and Technology Services.
- (j) Department for Public Health.
- (k) Department for Medicaid Services.
- (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
- (m) Department for Aging and Independent Living.
- (n) Department for Community Based Services.
- (o) Department for Income Support.
- (p) Department for Family Resource Centers and Volunteer Services.
- (q) Kentucky Commission on Community Volunteerism and Service.
- (r) Kentucky Commission for Children with Special Health Care Needs.
- (s) Governor's Office of Electronic Health Information.
- (t) Office of Legislative and Regulatory Affairs.
- (9) Finance and Administration Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of the Inspector General.
 - (c) Office of Legislative and Intergovernmental Affairs.
 - (d) Office of General Counsel.
 - (e) Office of the Controller.
 - (f) Office of Administrative Services.
 - (g) Office of Policy and Audit.
 - (h) Department for Facilities and Support Services.
 - (i) Department of Revenue.
 - (j) Commonwealth Office of Technology.
 - (k) State Property and Buildings Commission.
 - (l) Office of Equal Employment Opportunity and Contract Compliance.
 - (m) Kentucky Employees Retirement Systems.
 - (n) Commonwealth Credit Union.
 - (o) State Investment Commission.
 - (p) Kentucky Housing Corporation.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.

- (x) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering, Infrastructure, and Technology.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Marketing.
 - (d) Kentucky Horse Park.
 - 1. Division of Support Services.
 - 2. Division of Buildings and Grounds.
 - 3. Division of Operational Services.
 - (e) Kentucky State Fair Board.
 - 1. Office of Administrative and Information Technology Services.
 - 2. Office of Human Resources and Access Control.
 - 3. Division of Expositions.
 - 4. Division of Kentucky Exposition Center Operations.
 - 5. Division of Kentucky International Convention Center.
 - 6. Division of Public Relations and Media.
 - 7. Division of Venue Services.

8. Division of Personnel Management and Staff Development.
9. Division of Sales.
10. Division of Security and Traffic Control.
11. Division of Information Technology.
12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Government Relations and Administration.
 3. Office of Film and Tourism Development.
 4. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.
 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.

- (f) Office of Legal Services.
- (g) Governmental Services Center.
- (h) Department of Employee Insurance.
- (i) Office of Diversity, Equality, and Training.
- (j) Office of Public Affairs.

III. Other departments headed by appointed officers:

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

➔Section 2. KRS 12.252 is amended to read as follows:

- (1) There is established within the Public Protection Cabinet a Department of Financial Institutions, a Department of Insurance, a Department of Housing, Buildings and Construction, a Department of Charitable Gaming, a Department of Professional Licensing, and a Department of Alcoholic Beverage Control. Each department shall be headed by a commissioner appointed by the Governor as required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020. Commissioners shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (2) The secretary of the Public Protection Cabinet shall be appointed by the Governor in accordance with KRS 12.255. The Office of the Secretary shall contain the following entities:
 - (a) The Office of Communications and Public Outreach, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;~~and~~
 - (b) The Office of Legal Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210; **and**
 - (c) ***The Office of Administrative Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.***
- (3) There is established within the Public Protection Cabinet the Kentucky Claims Commission pursuant to KRS 49.010.
- (4) The Kentucky Horse Racing Commission is attached to the Public Protection Cabinet for administrative purposes only, except as provided in KRS 131.330.
- (5) There is established within the Public Protection Cabinet the Kentucky Boxing and Wrestling Commission, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.

➔Section 3. KRS 224.10-020 is amended to read as follows:

- (1) There is established within the cabinet a Department for Natural Resources, a Department for Environmental Protection, ***an Office of Administrative Services***, and a Department for Energy Development and Independence. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.

- (2) There is established within the Department for Natural Resources a Division of Forestry, a Division of Conservation, a Division of Technical and Administrative Support, a Division of Mine Reclamation and Enforcement, a Division of Mine Permits, a Division of Abandoned Mine Lands, a Division of Oil and Gas, a Division of Mine Safety, and an Office of the Reclamation Guaranty Fund. The Kentucky Mining Board is attached to the Department for Natural Resources for administrative purposes. Each division shall be headed by a director, and each office shall be headed by an executive director. Directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050, except for the director of the Division of Conservation, who shall be appointed in accordance with KRS 146.100. Both directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.
- (3) There is established within the Department for Environmental Protection a Division of Water, a Division for Air Quality, a Division of Waste Management, a Division of Enforcement, a Division of Compliance Assistance, and a Division of Environmental Program Support. Each division shall be headed by a director appointed by the secretary with the approval of the Governor as required by KRS 12.050. Directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.
- (4) There is established within the Department for Energy Development and Independence a Division of Energy Efficiency and Conservation, a Division of Renewable Energy, a Division of Biofuels, a Division of Energy Generation, Transmission and Distribution, a Division of Carbon Management, and a Division of Fossil Energy Development. Each division shall be headed by a director. Directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050.
- (5) *There is established within the Office of Administrative Services a Division of Human Resources Management, a Division of Financial Management, and a Division of Information Services. Each division shall be headed by a director. Directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050.*

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

- (1) The secretary of the Labor Cabinet shall have the duties, responsibilities, power, and authority relating to labor, wages and hours, occupational safety and health of employees, child labor, apprenticeship, workers' compensation, and all other matters previously under the jurisdiction of the Department of Labor.
- (2) The Labor Cabinet shall consist of the Office of the Secretary, the Department of Workers' Claims, and the Department of Workplace Standards.
- (3) The following agencies are attached to the cabinet for administrative purposes only:
 - (a) Kentucky Occupational Safety and Health Review Commission;
 - (b) State Labor Relations Board;
 - (c) Workers' Compensation Funding Commission;
 - (d) Occupational Safety and Health Standards Board;
 - (e) Apprenticeship and Training Council;
 - (f) Employers' Mutual Insurance Authority;
 - (g) ~~Office of General Administration and Program Support for Shared Services, which shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040 upon recommendation from the secretaries of the Energy and Environment Cabinet, the Labor Cabinet, and the Public Protection Cabinet. The office is composed of the following divisions:~~
 1. ~~Division of Human Resource Management;~~
 2. ~~Division of Fiscal Management;~~
 3. ~~Division of Budgets; and~~
 4. ~~Division of Information Services;~~
 - (h) ~~Office of Inspector General for Shared Services, which shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040 upon recommendation from the secretaries of the Energy and Environment Cabinet, the Labor Cabinet, and the Public Protection Cabinet; and~~

(4) ~~—~~Workers' Compensation Nominating Committee.

➔Section 5. KRS 336.020 is amended to read as follows:

- (1) The Department of Workplace Standards shall be headed by a commissioner appointed by the Governor in accordance with KRS 12.040 and shall be divided for administrative purposes into the Division of Apprenticeship, the Division of Occupational Safety and Health Compliance, the Division of Occupational Safety and Health Education and Training, and the Division of Wages and Hours. Each of these divisions shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050.
- (2) The Department of Workers' Claims shall be headed by a commissioner appointed by the Governor, and confirmed by the Senate in accordance with KRS 342.228. The department shall be divided for administrative purposes into the Office of Administrative Law Judges, the Division of Claims Processing, ~~the Division of Information Services,~~ the Division of Security and Compliance, the Division of Workers' Compensation Funds, and the Division of ~~Ombudsman and Workers' Compensation~~ Specialist *and Medical* Services. The Office of Administrative Law Judges shall be headed by a chief administrative law judge appointed in accordance with KRS 342.230. Each division in the department shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050. The Workers' Compensation Board shall be attached to the Department of Workers' Claims for administrative purposes only.
- (3) The Office of General Counsel for the Labor Cabinet, *the Office of Administrative Services, and the Office of Inspector General*, ~~and the Division of Management Services~~ are attached to the Office of the Secretary of the Labor Cabinet.
- (4)
 - (a) The Office of General Counsel for the Labor Cabinet shall be headed by a general counsel appointed by the secretary with approval by the Governor in accordance with KRS 12.050 and 12.210.
 - (b) The Office of General Counsel shall be divided for administrative purposes into the Workplace Standards Legal Division and the Workers' Claims Legal Division.
 - (c) Each legal division shall be headed by a general counsel appointed by the secretary with approval by the Governor in accordance with KRS 12.050 and 12.210.
- (5)
 - (a) *The Office of Administrative Services shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040.*
 - (b) *The Office of Administrative Services shall be divided for administrative purposes into the Division of Fiscal Management, the Division of Human Resources Management, the Division of Information Technology and Support Services, and the Division of Professional Development and Organizational Management. Each division shall be headed by a director appointed by the secretary and approved by the Governor in accordance with KRS 12.050.*
- (6) *The Office of Inspector General shall be headed by an executive director appointed by the Governor in accordance with KRS 12.040.*

➔Section 6. Notwithstanding the provisions of KRS 12.028(5) to the contrary, the General Assembly confirms Executive Order 2017-745, dated October 31, 2017; Executive Order 2017-746, dated October 31, 2017; Executive Order 2017-747, dated October 31, 2017; Executive Order 2017-748, dated October 31, 2017; and Executive Order 2017-855, dated November 30, 2017, to the extent the orders are not otherwise confirmed or superseded by this Act.

Signed by Governor March 28, 2018.

CHAPTER 32

(SJR 218)

A JOINT RESOLUTION directing state agencies to conduct self-studies to examine current practices that contribute to food waste and to identify opportunities to reduce food waste by increasing donations to charitable feeding agencies.

WHEREAS, one in six Kentuckians and one in five Kentucky children suffers from food insecurity; and

WHEREAS, the General Assembly has previously adopted measures to alleviate food insecurity in Kentucky, most recently with the unanimous enactment of House Bill 237 in 2017; and

WHEREAS, although millions of Americans struggle with food insecurity, numerous studies indicate that a significant portion of the food produced in the United States is needlessly wasted; and

WHEREAS, employees within the various cabinets, departments, and agencies of the Commonwealth of Kentucky may occasionally cook, prepare, or serve food in the course of their service to the people of Kentucky; and

WHEREAS, the cabinets, departments, and agencies of the Commonwealth of Kentucky may occasionally enter into contracts with vendors to serve food at meetings, conferences, and other events; and

WHEREAS, the Kentucky Association of Food Banks comprises seven regional food banks that serve all 120 counties in Kentucky; and

WHEREAS, Kentucky's seven regional food banks work in partnership with more than 800 charitable feeding agencies, including pantries, soup kitchens, and shelters; and

WHEREAS, many charitable feeding agencies in Kentucky have sufficient storage capacity to accept, store, and distribute prepared foods;

NOW, THEREFORE,

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

➔Section 1. Each cabinet, department, and agency of the Commonwealth shall conduct a self-study to examine current practices that contribute to food waste, and identify new practices that would reduce food waste and increase food donations to charitable feeding agencies such as pantries, soup kitchens, and shelters.

➔Section 2. Each cabinet, department, and agency shall submit a written report of its findings from the studies required by Section 1 of this Resolution to the Legislative Research Commission's Interim Joint Committee on Agriculture by October 31, 2018.

➔Section 3. The Finance and Administration Cabinet shall develop food waste reduction guidelines to be used by cabinets, departments, and agencies of the Commonwealth in food purchasing contracts with vendors.

➔Section 4. The Finance and Administration Cabinet shall submit a written report of the task identified in Section 3 of this Resolution to the Legislative Research Commission's Interim Joint Committee on Agriculture by October 31, 2018.

➔Section 5. The Clerk of the Senate shall transmit a copy of this Resolution to Governor Matthew G. Bevin, 700 Capital Avenue, Suite 100, Frankfort, Kentucky 40601; Secretary of the Executive Cabinet Scott Brinkman, 700 Capital Avenue, Suite 100, Frankfort, Kentucky 40601; and Secretary of the Finance and Administration Cabinet William Landrum, 702 Capital Avenue, Suite 383, Frankfort, Kentucky 40601.

Signed by Governor March 29, 2018.

CHAPTER 33

(SB 116)

AN ACT relating to the operation of a commercial motor vehicle.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) *A motor carrier may operate a platoon on the highways of this state if the motor carrier complies with this section.*
- (2) *Motor carriers wishing to operate a platoon shall provide notification to the department and the Kentucky State Police, including a plan for general platoon operations. The department shall have thirty (30) days from the date of receipt to review the notification plan submitted and determine whether it will approve or*

reject the plan. If the department rejects a submitted plan, it shall inform the motor carrier of the reason for the rejection and provide guidance on how to resubmit the notification and plan to meet the standards.

- (3) *Only commercial motor vehicles shall be eligible to operate in a platoon.*
- (4) *An appropriately endorsed driver who holds a valid commercial driver's license shall be present behind the wheel of each commercial motor vehicle in a platoon.*
- (5) *A commercial motor vehicle involved in a platoon shall not draw another motor vehicle in the platoon.*
- (6) *Each commercial motor vehicle involved in a platoon shall display a marking warning other motorists and law enforcement that the vehicle may be part of a platoon.*
- (7) *The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to set forth procedures for platooning, including required elements of a platooning plan.*

➔Section 2. KRS 281.010 is amended to read as follows:

As used in this chapter:

- (1) "Automobile utility trailer" means any trailer or semitrailer designed for use with and towed behind a passenger motor vehicle;
- (2) "Automobile utility trailer certificate" means a certificate authorizing a person to engage in the business of automobile utility trailer lessor;
- (3) "Automobile utility trailer lessor" means any person operating under an automobile utility trailer certificate who is engaged in the business of leasing or renting automobile utility trailers, but shall not include the agents of such persons;
- (4) "Broker" means a person selected by the cabinet through a request for proposal process to coordinate human service transportation delivery within a specific delivery area. A broker may also provide transportation services within the specific delivery area for which the broker is under contract with the cabinet;
- (5) "Bus" means a motor vehicle operating under a bus certificate transporting passengers for hire between points over regular routes;
- (6) "Bus certificate" means a certificate granting authority for the operation of one (1) or more buses;
- (7) "Cabinet" means the Kentucky Transportation Cabinet;
- (8) "Certificate" means a certificate of compliance issued under this chapter to motor carriers;
- (9) "Charter bus" means a motor vehicle operating under a charter bus certificate providing for-hire intrastate transportation of a group of persons who, pursuant to a common purpose under a single contract at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin;
- (10) "Charter bus certificate" means a certificate granting authority for the operation of one (1) or more charter buses;
- (11) "Commissioner" means the commissioner of the Department of Vehicle Regulation;
- (12) "CTAC" means the Coordinated Transportation Advisory Committee created in KRS 281.870;
- (13) "Department" means the Department of Vehicle Regulation;
- (14) "Delivery area" means one (1) or more regions established by the cabinet in administrative regulations promulgated under KRS Chapter 13A for the purpose of providing human service transportation delivery in that region;
- (15) "Disabled persons vehicle carrier" means a motor carrier for hire, transporting passengers including the general public who require transportation in disabled persons vehicles;
- (16) "Disabled persons vehicle" means a motor vehicle operating under a disabled persons vehicle certificate especially equipped for the transportation of passengers with disabilities in accordance with 49 C.F.R. pt. 38, and is designed or constructed with not more than fifteen (15) regular seats. It shall not mean an ambulance as defined in KRS 311A.010. It shall not mean a motor vehicle equipped with a stretcher;
- (17) "Disabled persons vehicle certificate" means a certificate granting authority for the operation of one (1) or more disabled persons vehicles transporting passengers for hire;

- (18) "Driveaway" means the transporting and delivering of motor vehicles, except semitrailers and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for hire. "Driveaway" does not include the transportation of such vehicles by the full mount method on trailers or semitrailers;
- (19) "Driveaway certificate" means a certificate granting authority for the operation of one (1) or more motor carrier vehicles operating as a driveaway;
- (20) "Driver" means the person physically operating the motor vehicle;
- (21) "Highway" means all public roads, highways, streets, and ways in this state, whether within a municipality or outside of a municipality;
- (22) "Household goods" has the same meaning as in 49 C.F.R. sec. 375.103;
- (23) "Household goods carrier" has the same meaning as "household goods motor carrier" in 49 C.F.R. sec. 375.103;
- (24) "Household goods certificate" means a certificate granting authority for the operation of one (1) or more household goods vehicles;
- (25) "Human service transportation delivery" means the provision of transportation services to any person that is an eligible recipient in one (1) of the following state programs:
 - (a) Nonemergency medical transportation under KRS Chapter 205;
 - (b) Mental health, intellectual disabilities, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;
 - (c) Work programs for public assistance recipients under KRS Chapter 205;
 - (d) Adult services under KRS Chapter 205, 209, 216, or 273;
 - (e) Vocational rehabilitation under KRS Chapter 151B or 157; or
 - (f) Blind industries or rehabilitation under KRS Chapter 151B or 163;
- (26) "Interstate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;
- (27) "Intrastate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;
- (28) "Limousine" means a motor vehicle operating under a limousine certificate that is designed or constructed with not more than fifteen (15) regular seats;
- (29) "Limousine certificate" means a certificate granting authority for the operation of one (1) or more limousines transporting passengers for hire;
- (30) "Mobile application" means an application or a computer program designed to run on a smartphone, tablet computer, or other mobile device that is used by a TNC to connect drivers with potential passengers;
- (31) "Motor carrier" means any person in either a private or for-hire capacity who owns, controls, operates, manages, or leases, except persons leasing to authorized motor carriers, any motor vehicle for the transportation of passengers or property upon any highway, and any person who engages in the business of automobile utility trailer lessor, driveaway, or U-Drive-It;
- (32) "Motor carrier vehicle" means a motor vehicle used by a motor carrier to transport passengers or property;
- (33) "Motor carrier vehicle license" means a license issued by the department for a motor carrier vehicle authorized to operate under a certificate;
- (34) "Motor carrier license plate" means a license plate issued by the department to a motor carrier authorized to operate under a certificate other than a household goods, property, TNC, or U-Drive-It certificate;
- (35) "Motor vehicle" means any motor-propelled vehicle used for the transportation of passengers or property on a public highway, including any such vehicle operated as a unit in combination with other vehicles;
- (36) "Passenger" means an individual or group of people;
- (37) "Permit" means a temporary permit of compliance issued under this chapter for a specified period not to exceed ten (10) days, and for a specific vehicle, to any motor carrier, including one who is a nonresident of the

Commonwealth, who operates a motor vehicle and is not entitled to an exemption from the payment of fees imposed under KRS 186.050 because of the terms of a reciprocal agreement between the Commonwealth and the state in which the vehicle is licensed;

- (38) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and includes any trustee, assignee, or personal representative thereof;
- (39) ***"Platoon" means a group of two (2) individual commercial motor vehicles traveling in a unified manner at electronically coordinated speeds at following distances that are closer than would ordinarily be allowed under subsection (8)(b) of Section 3 of this Act;***
- (40) "Prearranged ride" means the period of time that begins when a transportation network company driver accepts a requested ride through a digital network or mobile application, continues while the driver transports the rider in a personal vehicle, and ends when the transportation network company services end;
- ~~(41)(40)~~ "Pre-trip acceptance liability policy" means the transportation network company liability insurance coverage for incidents involving the driver for a period of time when a driver is logged into a transportation network company's digital network or mobile application but is not engaged in a prearranged ride;
- ~~(42)(41)~~ "Property" means general or specific commodities, including hazardous and nonhazardous materials;
- ~~(43)(42)~~ "Property certificate" means a certificate granting authority for the transportation of property, other than household goods, not exempt under KRS 281.605;
- ~~(44)(43)~~ "Regular route" means the scheduled transportation of passengers between designated points over designated routes under time schedules that provide a regularity of services;
- ~~(45)(44)~~ "Regular seat" means a seat ordinarily and customarily used by one (1) passenger and, in determining such seating capacity, the manufacturer's rating may be considered;
- ~~(46)(45)~~ "Street hail" means a request for service made by a potential passenger using hand gestures or verbal statement;
- ~~(47)(46)~~ "Subcontractor" means a person who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area and who meets human service transportation delivery requirements, including proper operating authority;
- ~~(48)(47)~~ "Tariff" means the listing of compensation received by a motor carrier for household goods that includes the manner in which and the amount of fares an authorized motor carrier may charge;
- ~~(49)(48)~~ "Taxicab" means a motor vehicle operating under a taxicab certificate that is designed or constructed with not more than eight (8) regular seats and may be equipped with a taximeter;
- ~~(50)(49)~~ "Taxicab certificate" means a certificate granting authority for the operation of one (1) or more taxicabs transporting passengers for hire;
- ~~(51)(50)~~ "Taximeter" means an instrument or device approved by the department that automatically calculates and plainly indicates the charge to a passenger for hire who is being charged on the basis of mileage;
- ~~(52)(51)~~ "Transportation network company" or "TNC" means a person or entity that connects passengers through its digital network or mobile application to its drivers for the provision of transportation network company services;
- ~~(53)(52)~~ "Transportation network company certificate" or "TNC certificate" means a certificate granting the authority for the operation of one (1) or more transportation network company vehicles transporting passengers for hire;
- ~~(54)(53)~~ "Transportation network company driver" or "TNC driver" means an individual who operates a motor vehicle that is owned or leased by the individual, or a motor vehicle for which the driver is an insured driver and has the permission of the owner or lessee of the motor vehicle, and used to provide transportation network company services;
- ~~(55)(54)~~ "Transportation network company service" or "TNC service" means a prearranged passenger transportation service offered or provided through the use of a transportation network company mobile application or digital network to connect potential passengers with transportation network company drivers;

- ~~(56)~~~~(55)~~ "Transportation network company vehicle" or "TNC vehicle" means a privately owned or leased motor vehicle, designed or constructed with not more than eight (8) regular seats, operating under a transportation network company certificate;
- ~~(57)~~~~(56)~~ "U-Drive-It" means any person operating under a U-Drive-It certificate who leases or rents a motor vehicle for consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee; and
- ~~(58)~~~~(57)~~ "U-Drive-It certificate" means a certificate granting authority for the operation of one (1) or more U-Drive-Its.

➔Section 3. KRS 189.340 is amended to read as follows:

- (1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. Vehicles overtaking streetcars may pass either to the right or left when so directed by a police officer, when on a one (1) way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.
- (2) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - (a) When the vehicle overtaken is making or about to make a left turn;
 - (b) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
- (3) The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a complete stop and such movement may be made safely.
- (4) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within two hundred (200) feet of any vehicle approaching from the opposite direction.
- (5) The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof.
- (6) Whenever any roadway has been divided into three (3) clearly marked lanes for travel, the following additional rules shall apply:
 - (a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;
 - (b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation; and
 - (c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directions of such signs.
- (7) A vehicle shall not be driven in the left lane of any limited access highway of four (4) lanes or more with a posted speed limit of at least sixty-five (65) miles per hour, except in overtaking a slower vehicle, yielding to traffic coming onto such a highway, or when traffic conditions exist which would prohibit safe use of the right or center lanes.
- (8) (a) ***Except as provided in paragraph (c) of this subsection,*** the operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.

- (b) *Except as provided in paragraph (c) of this subsection*, the operator of any motor truck, semitrailer truck, bus, or heavy construction equipment unit, when traveling upon a highway outside of a business or residential district, shall not follow within two hundred fifty (250) feet of another such vehicle or equipment unit. This subsection shall not prevent overtaking and passing, nor shall it apply to any lane specially designated for use of motor trucks or semitrailer trucks, buses or heavy construction equipment units.
- (c) *Paragraphs (a) and (b) of this subsection shall not apply to a trailing commercial motor vehicle involved in a platoon as defined in Section 2 of this Act, but shall apply to the commercial motor vehicle leading a platoon.*

Signed by Governor March 29, 2018.

CHAPTER 34

(SB 109)

AN ACT relating to crimes and punishments.

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

➔Section 1. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by **any body part or** a foreign object manipulated by another person. "Deviate sexual intercourse" does not include penetration of the anus by **any body part or** a foreign object in the course of the performance of generally recognized health-care practices;
- (2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;
- (3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;
- (4) "Individual with an intellectual disability" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;
- (5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of an intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;
- (6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. "Physically helpless" also includes a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug;
- (7) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;
- (8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by **any body part or** a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. "Sexual intercourse" does not include penetration of the sex organ by **any body part or** a foreign object in the course of the performance of generally recognized health-care practices; and

- (9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor.

Signed by Governor March 29, 2018.

CHAPTER 35

(SB 106)

AN ACT relating to blow drying services.

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

➔Section 1. KRS 317A.010 is amended to read as follows:

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

- (1) "Beauty salon" means any establishment in which the practice of cosmetology is conducted for the general public or for consideration;
- (2)
 - (a) *"Blow drying services" means beautifying, cleaning, or arranging the hair of an individual for consideration only at a limited beauty salon.*
 - (b) *"Blow drying services" include any of the following services performed on an individual's hair:*
 1. *Arranging;*
 2. *Cleaning;*
 3. *Curling;*
 4. *Dressing;*
 5. *Blow drying; and*
 6. *Performing any other similar procedure.*
 - (c) *"Blow drying services" do not include any service:*
 1. *Popularly known as a Brazilian blowout;*
 2. *That includes color services or that includes cutting, lightening, or chemically treating hair; or*
 3. *That otherwise falls under the practice of cosmetology, except as authorized in paragraph (b) of this subsection;*
- (3) "Cosmetologist" means a person who engages in the practice of cosmetology for the public generally or for consideration, regardless of the name under which the practice is conducted;
- ~~(4)~~~~(3)~~ "Cosmetologist board" or "board" means the Kentucky Board of Hairdressers and Cosmetologists;
- ~~(5)~~~~(4)~~ "Cosmetology" means the practice upon the human neck and head of cutting hair, permanent waving, or hairdressing, and may also include but is not limited to:
 - (a) Nail technology and finger waving;
 - (b) Giving facial and scalp massage or treatments with oils, creams, lotions, or other preparations, either by hand or any contrivance;
 - (c) Shaping, designing, shampooing, pressing, arranging, tinting, or lightening the hair, or applying hair products;
 - (d) Applying to the neck or head, cosmetics, lotions, powders, oils, clays, or other products;
 - (e) Eyelash extensions;
 - (f) Facial hair removal; and
 - (g) Eyebrow shaping, design, threading or removal.

The practice of cosmetology does not include acts performed incident to treatment of an illness or a disease;

- ~~(6)~~~~(5)~~ "Cosmetology school" or "school of cosmetology" means any operation, place, or establishment in or through which persons are trained or taught the practice of cosmetology and nail technology;
- ~~(7)~~ ***"Limited beauty salon" means any establishment in which the practice of blow drying services only is conducted for the general public or for consideration;***
- ~~(8)~~~~(6)~~ "Nail salon" means any establishment in which the practice of nail technology only is conducted for the general public or for consideration;
- ~~(9)~~~~(7)~~ "Nail technician" means a person who practices nail technology for the general public or for consideration;
- ~~(10)~~~~(8)~~ "Nail technology" means the practice of cutting, trimming, polishing, coloring, cleansing, applying artificial nails, or massaging, cleaning, treating, or beautifying the hands and feet of any human, for which a license is required by this chapter;
- ~~(11)~~~~(9)~~
 - (a) "Natural hair braiding" means a service of twisting, wrapping, weaving, extending, locking, or braiding hair by hand or with mechanical devices. Natural hair braiding is commonly known as "African-style hair braiding" but is not limited to any particular cultural, ethnic, racial, or religious forms of hair styles.
 - (b) "Natural hair braiding" includes:
 1. The use of natural or synthetic hair extensions, natural or synthetic hair and fibers, decorative beads, and other hair accessories;
 2. Minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking, or braiding hair;
 3. The use of topical agents such as conditioners, gels, moisturizers, oils, pomades, and shampoos; and
 4. The making of wigs from natural hair, natural fibers, synthetic fibers, and hair extensions.
 - (c) "Natural hair braiding" does not include:
 1. The application of dyes, reactive chemicals, or other preparation to alter the color of the hair or to straighten, curl, or alter the structure of the hair; or
 2. The use of chemical hair joining agents such as synthetic tape, keratin bonds, or fusion bonds.
 - (d) For the purposes of this subsection, "mechanical devices" means clips, combs, curlers, curling irons, hairpins, rollers, scissors, needles, thread, and hair binders; and
- ~~(12)~~~~(10)~~ "Threading" means the process of removing hair from below the eyebrow by use of a thread woven through the hair to be removed.

➔Section 2. KRS 317A.050 is amended to read as follows:

- (1) The cosmetologist board shall issue an apprentice cosmetologist license to any person who:
 - (a) Is of good moral character and temperate habit;
 - (b) Is at least sixteen (16) years of age;
 - (c) Has a high school diploma, a High School Equivalency Diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;
 - (d) Has official certification from the state board or agency that certifies cosmetology schools that the applicant has graduated from a licensed school of cosmetology requiring:
 1. One thousand eight hundred (1,800) hours within ten (10) years of submitting an application for licensure for applicants enrolled prior to June 29, 2017, in a school of cosmetology licensed in Kentucky;
 2. One thousand five hundred (1,500) hours within ten (10) years of submitting an application for licensure for applicants enrolling on or after June 29, 2017, in a school of cosmetology licensed in Kentucky; or

3. One thousand five hundred (1,500) hours within ten (10) years of submitting an application for licensure for applicants who graduated from a school of cosmetology licensed in a jurisdiction outside of the Commonwealth;
 - (e) Has passed an examination prescribed by the board to determine fitness to practice as an apprentice cosmetologist; and
 - (f) Has paid a fee of twenty-five dollars (\$25).
- (2) The cosmetologist board shall issue a cosmetologist license to any person who:
- (a) Has a high school diploma, a High School Equivalency Diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;
 - (b) Has practiced as a licensed cosmetology apprentice for at least six (6) months under the immediate supervision of a licensed cosmetologist;
 - (c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice cosmetology; and
 - (d) Has paid a fee of twenty-five dollars (\$25).
- (3) The cosmetologist board shall issue a license to act as a nail technician to any person who:
- (a) Is of good moral character and temperate habit;
 - (b) Has official certification from the state board or agency that certifies cosmetology schools that the applicant has completed satisfactorily a nail technician course of study of six hundred (600) hours in a licensed school of cosmetology within ten (10) years of submitting an application for licensure;
 - (c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice as a nail technician;
 - (d) Has a high school diploma, a High School Equivalency Diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school; and
 - (e) Has paid a fee of twenty-five dollars (\$25).
- (4)
- (a) The cosmetologist board shall issue a license to operate a beauty salon to any licensed cosmetologist upon receipt of the completed application, accompanied by a fee of thirty-five dollars (\$35). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or the administrative regulations promulgated by the board. If an owner is not a licensed cosmetologist, he or she shall have a licensed cosmetologist manage the beauty salon at all times. A new license shall be purchased if the salon's owner, manager, or location changes.
 - (b) The cosmetologist board shall issue a license to operate a nail salon to any licensed nail technician upon receipt of the completed application and payment of a fee of thirty-five dollars (\$35). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or administrative regulations promulgated by the board pursuant to this chapter. An owner who is not a licensed nail technician shall have a licensed nail technician or cosmetologist as manager of the nail salon at all times. If the owner, manager, or location of a nail salon changes, a new license shall be purchased.
 - (c) Any person who leases or rents space in a beauty salon or nail salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a) and (b) of this subsection.
- (5) The cosmetologist board shall issue an apprentice license to teach cosmetology to any person who:
- (a) Has paid a fee of thirty-five dollars (\$35);
 - (b) Has a high school diploma, a High School Equivalency Diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school and one (1) year experience as a licensed cosmetologist; and
 - (c) Has submitted an application that has been signed by the owners of the school in which the applicant will study. The course of instruction shall be for a period of one thousand (1,000) hours and not less than six (6) months at one (1) school providing this instruction. The school owner shall verify to the board the completion of one thousand (1,000) hours. For out-of-state verification, an applicant shall

provide official certification from the board or agency that certifies schools in that other state of licensure verifying the applicant has completed a course of instruction consisting of at least one thousand (1,000) hours and not less than six (6) months at one (1) school providing the instruction.

- (6) The cosmetologist board shall issue a license to teach cosmetology to any person who:
- (a) Is of good moral character and temperate habit;
 - (b) Has a high school diploma, a High School Equivalency Diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;
 - (c) Has held an apprentice instructor license for at least six (6) months;
 - (d) Has satisfactorily passed the examination for the teaching of cosmetology as prescribed by the board; and
 - (e) Has paid a fee of fifty dollars (\$50).
- (7) The cosmetologist board may issue a license to operate a school of cosmetology to any person who:
- (a) Has complied with the administrative regulations promulgated by the board including but not limited to administrative regulations governing the necessary equipment, supplies, and facilities;
 - (b) Has furnished proof to the board that the school of cosmetology is needed, that he or she is otherwise qualified to operate a school of cosmetology, and that he or she intends to establish a bona fide school for the education and training of competent cosmetologists and that he or she will employ a sufficient number of licensed instructors of cosmetology to conduct the school;
 - (c) Has as manager at all times a person who is:
 1. Licensed as an instructor;
 2. Charged with the responsibility of ensuring that all applicable statutes and administrative regulations are complied with; and
 3. Responsible for having a sufficient number of licensed instructors of cosmetology to conduct the school.The designated manager shall be approved by the board before a license may be issued;
 - (d) Complies with the administrative regulations promulgated by the board including but not limited to those regarding courses, curriculum, and hours of instruction;
 - (e) Otherwise complies with this chapter;
 - (f) Has paid a fee of one thousand five hundred dollars (\$1,500);
 - (g) Has been a resident of Kentucky for five (5) years, if the applicant is an individual. If the applicant is a firm or corporation, it shall be a Kentucky corporation or licensed or qualified to do business in Kentucky and shall have been in existence for a period of at least five (5) years;
 - (h) Any student enrolling in the school shall pay a fee of fifteen dollars (\$15) to the board before enrollment in the school shall be allowed; and
 - (i) The transfer of any license to operate a school of cosmetology shall require the board's approval and shall become effective upon filing a new application with the board and paying a fee of one thousand five hundred dollars (\$1,500).
- (8) (a) *The cosmetologist board shall issue a license to provide blow drying services to any person who:*
1. *Is at least eighteen (18) years old;*
 2. *Has successfully completed a twelfth grade education or the equivalent;*
 3. *Has passed an examination prescribed by the board to determine fitness to perform blow drying services;*
 4. *Has completed at least four hundred fifty (450) hours of instruction from a licensed school of cosmetology;*
 5. *Has met any other reasonable criteria established in administrative regulations promulgated by the board; and*

6. *Has paid a fee of twenty-five dollars (\$25).*
- (b) *The cosmetologist board shall issue a license to operate a limited beauty salon to any person:*
 1. *Who is licensed to provide blow drying services or who employs at least one (1) person licensed to provide blow drying services at the limited beauty salon;*
 2. *Whose limited beauty salon facility complies with standards established in administrative regulations promulgated by the board; and*
 3. *Who has paid a fee of thirty-five dollars (\$35).*
- (9) Licenses and permits issued by the board may be renewed upon receipt, beginning July 1 through July 31 of each year. The application for renewal shall be completed in full and accompanied by the appropriate renewal fee required by subsection (10)(9) of this section. Applications for renewal shall comply with the provisions of this chapter and the administrative regulations promulgated by the board. Any license application received or postmarked after July 31 shall be considered expired, and the appropriate restoration fee required by subsection (12)(11) of this section shall apply.
- (10)(9) The annual renewal license or permit fee for each type of license or permit renewal shall be as follows:
 - (a) Apprentice cosmetologist -- \$20;
 - (b) Cosmetologist -- \$20;
 - (c) Nail technician -- \$20;
 - (d) **Blow drying services -- \$20;**
 - (e) Beauty salon -- \$25;
 - (f)(e) Nail salon -- \$25;
 - (g) **Limited beauty salon -- \$25;**
 - (h)(f) Apprentice instructor of cosmetology -- \$25;
 - (i)(g) Instructor of cosmetology -- \$35;
 - (j)(h) Cosmetology school -- \$150;
 - (k)(i) Threading permit -- \$20; and
 - (l)(j) Threading facility permit -- \$25.
- (11)(10) Applications for examinations required by this section shall be accompanied by an examination fee as follows:
 - (a) Apprentice cosmetologist -- \$75;
 - (b) Cosmetologist -- \$75;
 - (c) Nail technician -- \$75;
 - (d) **Blow drying services -- \$50;**
 - (e) Instructor of cosmetology -- \$100;
 - (f)(e) Cosmetologist out-of-state -- \$120; and
 - (g)(f) Instructor out-of-state -- \$200.
- (12)(11) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:
 - (a) Apprentice cosmetologist -- \$75;
 - (b) Cosmetologist -- \$75;
 - (c) Nail technician -- \$75;
 - (d) **Blow drying services -- \$75;**
 - (e) Beauty salon -- \$75;

- (f)~~(e)~~ Nail salon -- \$75;
- (g) **Limited beauty salon** -- \$75;
- (h)~~(f)~~ Cosmetology school -- \$750;
- (i)~~(g)~~ Instructor -- \$100; and
- (j)~~(h)~~ Apprentice instructor -- \$75.
- (13)~~(12)~~ The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:
- Cosmetologists shall retake and pass the practical examination only;
 - Apprentice cosmetologists shall complete four hundred fifty (450) additional hours training in a licensed school of cosmetology and pass all the prescribed examinations;
 - Instructors of cosmetology shall retake and pass both the practical and theory examination;
 - Nail technicians shall retake and pass the practical and theory examination;~~and~~
 - Providers of blow drying services shall retake and pass both the practical and theory examination; and**
 - The appropriate restoration fee as set forth in subsection (12)~~(11)~~ of this section shall be required.
- (14)~~(13)~~ Guest artists or demonstrators appearing and demonstrating before persons other than licensed hairdressers, cosmetologists,~~and~~ nail technicians, **and providers of blow drying services** shall pay a fee of fifty dollars (\$50) for a permit that shall be in effect for ten (10) days. Guest artists performing before a nonprofit, recognized professional hairdressers, cosmetologists, cosmetology school, **blow drying services**, or nail technicians group shall apply for a permit, but shall not be required to pay the fee.
- (15)~~(14)~~ The board shall issue a permit for threading and may promulgate administrative regulations that set out requirements for the practice of threading upon payment of a fee of twenty dollars (\$20). Threading shall be conducted in a licensed beauty salon or facility permitted to engage in threading, and the board may promulgate administrative regulations for facilities and the required sanitation standards.
- (16)~~(15)~~ The fee for certification shall be twenty dollars (\$20).
- (17)~~(16)~~ The fee for a duplicate license shall be twenty-five dollars (\$25).

➔Section 3. KRS 317A.062 is amended to read as follows:

- Notwithstanding the provisions of this chapter to the contrary, the cosmetology board shall promulgate administrative regulations establishing a reasonable schedule of fees and charges for examinations, for the issuance of licenses, and for the renewal of licenses issued under this chapter. All such fees, charges, and other moneys collected by the board, shall be paid into the State Treasury and credited to a trust and agency fund established under KRS 317A.080. The fees shall be established pursuant to subsections (2) to (7) of this section.
- The following licensing fees may be assessed by the cosmetology board and shall not exceed the following amounts:
 - Apprentice cosmetologist\$25.00
 - Cosmetologist\$25.00
 - Nail technician\$25.00
 - Blow drying services****\$25.00**
 - Beauty salon operator\$35.00
 - ~~(f)(e)~~ Nail salon operator\$35.00
 - Limited beauty salon****\$35.00**
 - ~~(h)(f)~~ Apprentice cosmetology instructor\$35.00
 - ~~(i)(g)~~ Cosmetology instructor\$50.00
 - ~~(j)(h)~~ School of cosmetology\$1,500.00

- (~~k~~)(~~i~~) Student.....\$15.00
- (~~l~~)(~~j~~) School of cosmetology, transfer of ownership.....\$1,500.00
- (~~m~~)(~~k~~) School of cosmetology, manager change.....\$250.00
- (3) The board shall assess the following licensing renewal fees that shall not exceed the following:
- (a) Apprentice cosmetologist\$20.00
- (b) Cosmetologist\$20.00
- (c) Nail technician license\$20.00
- (d) **Blow drying services**\$20.00
- (e) Beauty salon license\$25.00
- (~~f~~)(~~e~~) Nail salon license\$25.00
- (g) **Limited beauty salon license**.....\$25.00
- (~~h~~)(~~f~~) Apprentice instructor of cosmetology\$25.00
- (~~i~~)(~~g~~) Instructor of cosmetology\$35.00
- (~~j~~)(~~h~~) Cosmetology school.....\$150.00
- (4) The cosmetology board shall assess fees for the taking of an examination that shall not exceed the following:
- (a) Apprentice cosmetologist\$75.00
- (b) Cosmetologist\$75.00
- (c) Nail technician\$75.00
- (d) **Blow drying services**\$50.00
- (e) Instructor of cosmetology\$100.00
- (~~f~~)(~~e~~) Cosmetologist out-of-state\$120.00
- (~~g~~)(~~f~~) Instructor out-of-state.....\$200.00
- (5) The fee for retaking an examination or any portion of an examination that an applicant has not successfully completed shall not exceed the following:
- (a) Apprentice cosmetologist\$32.00
- (b) Cosmetologist\$32.00
- (c) Nail technician\$32.00
- (d) **Blow drying services**\$25.00
- (e) Instructor of cosmetology\$50.00
- (~~f~~)(~~e~~) Cosmetologist out-of-state\$60.00
- (~~g~~)(~~f~~) Instructor out-of-state.....\$100.00
- (6) The fees for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration shall not exceed the following:
- (a) Apprentice cosmetologist\$75.00
- (b) Cosmetologist\$75.00
- (c) Nail technician\$75.00
- (d) **Blow drying services**\$75.00
- (e) Beauty salon \$75.00
- (~~f~~)(~~e~~) Nail salon.....\$75.00
- (g) **Limited beauty salon**.....\$75.00

(h) (f)	Cosmetology school.....	\$750.00
(i) (g)	Instructor.....	\$100.00
(j) (h)	Apprentice instructor	\$75.00

(7) The following miscellaneous fees may be assessed and shall not exceed the following:

- (a) Guest artists \$50.00
- (b) Certification fee\$20.00
- (c) Duplicate license.....\$25.00
- (d) Where an endorsement application is required by the
board.....\$100.00

➔Section 4. By December 31, 2018, the Kentucky Board of Hairdressers and Cosmetologists shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing the educational curriculum required to obtain a license to provide blow drying services.

Signed by Governor March 29, 2018.

CHAPTER 36

(SB 48)

AN ACT relating to child marriage.

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

➔Section 1. KRS 402.020 is amended to read as follows:

(1) Marriage is prohibited and void:

- (a) With a person who has been adjudged mentally disabled by a court of competent jurisdiction;
- (b) Where there is a husband or wife living, from whom the person marrying has not been divorced;
- (c) When not solemnized or contracted in the presence of an authorized person or society;
- (d) Between members of the same sex;
- (e) Between more than two (2) persons; and
- (f) ~~{1. —} Except as provided in *Section 4 of this Act* {subparagraph 3. of this paragraph, when at the time of the marriage}, with a {the} person *who at the time of marriage* is under *eighteen (18)* {sixteen (16)} years of age {;}~~
~~{2. —} Except as provided in subparagraph 3. of this paragraph, when at the time of marriage, the person is under eighteen (18) but over sixteen (16) years of age, if the marriage is without the consent of:~~
 - ~~a. — The father or the mother of the person under eighteen (18) but over sixteen (16), if the parents are married, the parents are not legally separated, no legal guardian has been appointed for the person under eighteen (18) but over sixteen (16), and no court order has been issued granting custody of the person under eighteen (18) but over sixteen (16) to a party other than the father or mother;~~
 - ~~b. — Both the father and the mother, if both be living and the parents are divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) but over sixteen (16) has been issued and is in effect;~~
 - ~~c. — The surviving parent, if the parents were divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) but over sixteen (16) was issued prior to the death of either the father or mother, which order remains in effect;~~

- d. ~~The custodial parent, as established by a court order which has not been superseded, where the parents are divorced or legally separated and joint custody of the person under eighteen (18) but over sixteen (16) has not been ordered; or~~
 - e. ~~Another person having lawful custodial charge of the person under eighteen (18) but over sixteen (16), but~~
 - 3. ~~In case of pregnancy the male and female, or either of them, specified in subparagraph 1. or 2. of this paragraph, may apply to a District Judge for permission to marry, which application may be granted, in the form of a written court order, in the discretion of the judge. There shall be a fee of five dollars (\$5) for hearing each such application].~~
- (2) *Subsection (1)(f) of this section shall not apply to a lawful marriage entered into in the Commonwealth of Kentucky prior to the effective date of this Act or to a lawful marriage in another state or country prior to the parties' residence in the Commonwealth of Kentucky*~~[For purposes of this section "parent," "father," or "mother" means the natural parent, father, or mother of a child under eighteen (18) unless an adoption takes place pursuant to legal process, in which case the adoptive parent, father, or mother shall be considered the parent, father, or mother to the exclusion of the natural parent, father, or mother, as applicable].~~

➔Section 2. KRS 402.030 is amended to read as follows:

- (1) Courts having general jurisdiction may declare void any marriage obtained by force or fraud, *or, provided that the petition is brought by a party who was under the age of majority as defined by KRS 2.015 at the time of marriage, a marriage obtained by duress.*
- (2) At the instance of any next friend, courts having general jurisdiction may declare any marriage void where the person was under eighteen (18) ~~{but over sixteen (16) }~~years of age at the time of the marriage, and the marriage was without the consent required by *Section 4 of this Act*~~[KRS 402.020(1)(f) and has not been ratified by cohabitation after that age].~~

~~{(3) At the instance of any next friend, courts having general jurisdiction may declare void any marriage where:~~

- ~~(a) The person was under sixteen (16) years of age at the time of the marriage;~~
- ~~(b) The marriage was not conducted with the permission of a District Judge, as required by KRS 402.020(1)(f)3., in the form of a written court order; and~~
- ~~(c) The marriage has not been ratified by cohabitation after the person reached eighteen (18) years of age.]~~

➔Section 3. KRS 402.080 is amended to read as follows:

No marriage shall be solemnized without a license therefor. The license shall be issued by the clerk of the county in which the female resides at the time, unless the female is eighteen (18) years of age or over or a widow, and the license is issued on her application in person~~{ or by writing signed by her }~~, in which case it may be issued by any county clerk.

➔Section 4. KRS 402.210 is amended to read as follows:

- (1) *Both parties to a marriage shall:*~~[If either of the parties is under eighteen (18) but over sixteen (16) years of age and not before married, no license shall issue without the consent required by KRS 402.020(1)(f), personally given or certified in writing to the clerk over the signature of the person consenting in accordance with KRS 402.020(1)(f), attested by two (2) subscribing witnesses and proved by the oath of one (1) of the witnesses, administered by the clerk. If the parties are personally unknown to the clerk, a license shall not issue until bond, with good surety, in the penalty of one hundred dollars (\$100) is given to the Commonwealth, with condition that there is no lawful cause to obstruct the marriage]~~

(a) *Be present for a marriage license to be issued; and*

(b) *Present to the county clerk documentary proof of age in the form of:*

- 1. *A copy of a birth record;*
- 2. *A certification of birth issued by the state department of health, a local registrar of vital statistics, or other public office charged with similar duties by the laws of another state, territory, or country;*
- 3. *A baptismal record showing the individual's date of birth;*
- 4. *A passport;*

5. *An automobile driver's license;*
 6. *Any government or school issued identification card showing the individual's date of birth;*
 7. *An immigration record showing the individual's date of birth;*
 8. *A naturalization record showing the individual's date of birth; or*
 9. *A court record or any other document or record issued by a government entity showing the individual's date of birth.*
- (2) If either of the parties is under *seventeen (17)*~~*sixteen (16)*~~ years of age, no license shall *be issued*~~*issue*~~ without the permission of a District Judge, as required by KRS 402.020(1)(f)3., in the form of a certified copy of a written court order].
- (3) *If either of the parties is seventeen (17) years of age, a marriage license shall not be issued unless:*
- (a) *The party who is seventeen (17) years of age presents to the clerk a certified copy of a court order by a family court or District Court judge that grants the party permission to marry and removes the party's disability of minority, as provided in Section 7 of this Act; and*
 - (b) *At least fifteen (15) days have elapsed since the court order was granted.*

➔Section 5. KRS 402.250 is amended to read as follows:

Where doubt is felt as to the validity of a marriage, either party may, by petition in Circuit Court, demand its avoidance or affirmance; but where one (1) of the parties was ~~off-within~~ the age of *majority, as defined by KRS 2.015*~~*consent*~~ at the time of marriage, the party who is of proper age may not bring such a proceeding for that cause against the party under age.

➔Section 6. The following KRS section is repealed:

402.260 Receivership for person under eighteen who marries without judicial consent.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 402 IS CREATED TO READ AS FOLLOWS:

- (1) *A minor who is seventeen (17) years of age may petition the family court in the county in which the minor resides, or the District Court in that county if a family court division has not been established in that county, for an order granting permission to marry. The petition shall contain the following:*
- (a) *The petitioner's name, gender, age, date of birth, address, and how long the petitioner has resided at that address, as well as prior addresses and dates of residence for the six (6) months preceding the petition;*
 - (b) *The intended spouse's name, gender, age, date of birth, address, and how long the intended spouse has resided at that address, as well as prior addresses and dates of residence for the six (6) months preceding the petition;*
 - (c) *An affidavit attesting to the consent to marry signed by:*
 1. *The father or the mother of the petitioner, if the parents are married, the parents are not legally separated, no legal guardian has been appointed for petitioner, and no court order has been issued granting custody of petitioner to a party other than the father or mother;*
 2. *Both the father and the mother, if both are living and the parents are divorced or legally separated, and a court order of joint custody to the parents of the petitioner has been issued and is in effect;*
 3. *The surviving parent, if the parents were divorced or legally separated, and a court order of joint custody to the parents of the petitioner was issued prior to the death of either the father or mother, which order remains in effect;*
 4. *The custodial parent, as established by a court order which has not been superseded, where the parents are divorced or legally separated and joint custody of the petitioner has not been ordered; or*
 5. *Another person having lawful custodial charge of the petitioner;*
 - (d) *A statement of the reasons why the petitioner desires to marry, how the parties came to know each other, and how long they have known each other;*

- (e) *Evidence of the petitioner's maturity and capacity for self-sufficiency independent of the petitioner's parents and the intended spouse, including but not limited to:*
 - 1. *Proof that the petitioner has maintained stable housing or employment for at least three (3) consecutive months prior to the petition; and*
 - 2. *Proof that the petitioner has completed high school, obtained a High School Equivalency Diploma, or completed a vocational training or certificate program;*
 - (e) *Copies of any criminal records of either party to be married; and*
 - (f) *Copies of any domestic violence order or interpersonal protective order involving either party to be married.*
- (2) *Upon the filing of the petition for permission to marry, the court shall set a date for an evidentiary hearing on the petition that is no sooner than thirty (30) days but not later than sixty (60) days from the date of the filing.*
- (3) *The petitioner may be represented by counsel in court proceeding pertaining to the petition to marry.*
- (4) *The court shall take reasonable measures to ensure that any representations made by a minor party are free of coercion, undue influence, or duress. Reasonable measures shall include, but are not limited to, in camera interviews.*
- (5) *Following an evidentiary hearing, the court shall grant the minor's petition for permission to marry unless:*
 - (a) *The age difference between the parties is more than four (4) years;*
 - (b) *The intended spouse was or is a person in a position of authority or a position of special trust as defined in KRS 532.045 in relation to the minor;*
 - (c) *The intended spouse has previously been enjoined by a domestic violence order or interpersonal protective order, regardless of whether or not the person to be protected by the order was the minor petitioner;*
 - (d) *The intended spouse has been convicted of or entered into a diversion program for a criminal offense against a victim who is a minor as defined in KRS 17.500 or for a violent or sexual criminal offense under KRS Chapter 506, 507, 507A, 508, 509, 510, 529, 530, or 531;*
 - (e) *The court finds by a preponderance of the evidence that the minor was a victim and that the intended spouse was the perpetrator of a sexual offense against the minor under KRS 510.040, 510.050, 510.060, 510.110, 510.120, or 510.130;*
 - (f) *The court finds by a preponderance of the evidence that abuse, coercion, undue influence, or duress is present; or*
 - (g) *The court finds that it would otherwise not be in the minor party's best interest to grant the petition to marry.*
- (6) *A past or current pregnancy of the minor or the intended spouse shall not be sufficient evidence to establish that the best interests of the minor would be served by granting the petition for marriage.*
- (7) *The granting of a petition for permission to marry filed under subsection (1) of this section shall remove the disabilities of minority. A minor emancipated by the petition shall be considered to have all the rights and responsibilities of an adult, except for specific constitutional or statutory age requirements, including but not limited to voting, the use of alcoholic beverages, and other health and safety regulations relevant to him or her because of his or her age.*
- (8) *The minor shall be advised by the court of the rights and responsibilities of parties to a marriage and of emancipated minors. The minor shall be provided with a fact sheet on these rights and responsibilities to be developed by the Office of the Attorney General and the Cabinet for Health and Family Services. The fact sheet shall include referral information for legal aid agencies in the Commonwealth and national hotlines for domestic violence and sexual assault.*
- (9) *The court may make any other orders that the court deems appropriate for the minor's protection and may impose any other condition on the grant of the petition that the court determines is reasonable under the circumstances for the minor's protection.*

- (10) *The court may set a fee not to exceed twenty dollars (\$20) to file a petition for permission to marry under this section.*

Signed by Governor March 29, 2018.

CHAPTER 37

(HB 305)

AN ACT relating to reorganization.

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

➔Section 1. KRS 11.200 is amended to read as follows:

- (1) There is created the Commission on Small Business Advocacy. The commission shall be a separate administrative body of state government within the meaning of KRS 12.010(8).
- (2) It shall be the purpose of the Commission on Small Business Advocacy to:
 - (a) Address matters of small business as it relates to government affairs;
 - (b) Promote a cooperative and constructive relationship between state agencies and the small business community to ensure coordination and implementation of statewide strategies that benefit small business in the Commonwealth;
 - (c) Coordinate and educate the small business community of federal, state, and local government initiatives of value and importance to the small business community;
 - (d) Create a process by which the small business community is consulted in the development of public policy as it affects their industry sector;
 - (e) Aid the small business community in navigating the regulatory process, when that process becomes cumbersome, time consuming, and bewildering to the small business community; and
 - (f) Advocate for the small business, as necessary when regulatory implementation is overly burdensome, costly, and harmful to the success and growth of small businesses in the Commonwealth.
- (3) The Commission on Small Business Advocacy shall consist of thirteen (13) members:
 - (a) Two (2) members representing each congressional district; and
 - (b) One (1) at-large member.
- (4) All members shall be appointed by the Governor for a term of four (4) years, except that the original appointments shall be staggered so that three (3) appointments shall expire at one (1) year, three (3) appointments shall expire at two (2) years, and three (3) appointments shall expire at three (3) years, and four (4) appointments shall expire at four (4) years from the dates of initial appointment.
- (5) The Governor shall appoint the chair and vice chair of the commission from the appointed membership.
- (6) The commission shall meet quarterly and at other times upon call of the chair or a majority of the commission.
- (7) A quorum shall be a majority of the membership of the commission.
- (8) Members of the commission shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.
- (9) The commissioner of the Department for Business Development shall be the administrative head and chief executive officer of the commission. The secretary of the Cabinet for Economic Development shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.
- (10) The Commission on Small Business Advocacy shall be administratively attached to the Office of Entrepreneurship within the *Cabinet for Economic Development* ~~{Department for Business Development}~~.

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

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department of Public Advocacy.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.

1. Governor's Scholars Program.
2. Governor's School for Entrepreneurs Program.
- (b) Office of Legal and Legislative Services.
 1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.
- (e) Office of Technology Services.
- (f) Office of Educational Programs.
- (g) Office for Education and Workforce Statistics.
- (h) Board of the Kentucky Center for Education and Workforce Statistics.
- (i) Board of Directors for the Center for School Safety.
- (j) Department of Education.
 1. Kentucky Board of Education.
 2. Kentucky Technical Education Personnel Board.
- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.

1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 3. Office of Administrative Hearings.
 4. Mine Safety Review Commission.
 5. Kentucky State Nature Preserves Commission.
 6. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
- (d) Department for Energy Development and Independence.
1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.

- d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Kentucky Claims Commission.
 - (c) Kentucky Boxing and Wrestling Commission.
 - (d) Kentucky Horse Racing Commission.
 - 1. Office of Executive Director.
 - a. Division of Pari-mutuel Wagering and Compliance.
 - b. Division of Stewards.
 - c. Division of Licensing.
 - d. Division of Enforcement.
 - e. Division of Incentives and Development.
 - f. Division of Veterinary Services.
 - (e) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
 - (f) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
 - (g) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
 - (h) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
 - (i) Department of Insurance.
 - 1. Division of Insurance Product Regulation.
 - 2. Division of Administrative Services.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Division of Consumer Protection.
 - 7. Division of Kentucky Access.
 - (j) Department of Professional Licensing.
 - 1. Real Estate Authority.
- (5) Labor Cabinet.

- (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - a. Workplace Standards Legal Division.
 - b. Workers' Claims Legal Division.
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.
 - 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 - 1. Division of Apprenticeship.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of Wages and Hours.
 - (e) Department of Workers' Claims.
 - 1. Division of Workers' Compensation Funds.
 - 2. Office of Administrative Law Judges.
 - 3. Division of Claims Processing.
 - 4. Division of Security and Compliance.
 - 5. Division of Information Services.
 - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 - 7. Workers' Compensation Board.
 - (f) Workers' Compensation Funding Commission.
 - (g) Occupational Safety and Health Standards Board.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Employers' Mutual Insurance Authority.
 - (k) Kentucky Occupational Safety and Health Review Commission.
 - (l) Workers' Compensation Nominating Committee.
- (6) Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.

- (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.
- (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - ~~a. Office of Entrepreneurship.~~
 - ~~i. Commission on Small Business Advocacy.~~
 - ~~b. Office of Research and Public Affairs.~~
 - ~~e. Bluegrass State Skills Corporation.~~
 - 3. **Department for Financial Services**~~[Office of Financial Services].~~
 - a. Kentucky Economic Development Finance Authority.
 - b. **Finance and Personnel Division**~~[Division of Finance and Personnel].~~
 - c. **IT and Resource Management Division**~~[Division of Network Administration].~~
 - d. Compliance Division.
 - e. Incentive **Administration**~~[Assistance]~~ Division.
 - f. **Bluegrass State Skills Corporation.**
 - 4. **Office of Marketing and Public Affairs.**
 - a. **Communications Division.**
 - b. **Graphics Design Division.**
 - 5. **Office of Workforce, Community Development, and Research.**
 - 6. **Office of Entrepreneurship.**
 - a. **Commission on Small Business Advocacy.**
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.

- (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Finance and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
 - (t) Office of Legislative and Regulatory Affairs.
- (9) Finance and Administration Cabinet:
- (a) Office of the Secretary.
 - (b) Office of the Inspector General.
 - (c) Office of Legislative and Intergovernmental Affairs.
 - (d) Office of General Counsel.
 - (e) Office of the Controller.
 - (f) Office of Administrative Services.
 - (g) Office of Policy and Audit.
 - (h) Department for Facilities and Support Services.
 - (i) Department of Revenue.
 - (j) Commonwealth Office of Technology.
 - (k) State Property and Buildings Commission.
 - (l) Office of Equal Employment Opportunity and Contract Compliance.
 - (m) Kentucky Employees Retirement Systems.
 - (n) Commonwealth Credit Union.
 - (o) State Investment Commission.
 - (p) Kentucky Housing Corporation.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) Kentucky Higher Education Assistance Authority.

- (v) Kentucky River Authority.
- (w) Kentucky Teachers' Retirement System Board of Trustees.
- (x) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering, Infrastructure, and Technology.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Marketing.
 - (d) Kentucky Horse Park.
 - 1. Division of Support Services.
 - 2. Division of Buildings and Grounds.
 - 3. Division of Operational Services.
 - (e) Kentucky State Fair Board.
 - 1. Office of Administrative and Information Technology Services.
 - 2. Office of Human Resources and Access Control.
 - 3. Division of Expositions.
 - 4. Division of Kentucky Exposition Center Operations.
 - 5. Division of Kentucky International Convention Center.

6. Division of Public Relations and Media.
7. Division of Venue Services.
8. Division of Personnel Management and Staff Development.
9. Division of Sales.
10. Division of Security and Traffic Control.
11. Division of Information Technology.
12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.
- (f) Office of the Secretary.
 1. Office of Finance.
 2. Office of Government Relations and Administration.
 3. Office of Film and Tourism Development.
 4. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.
 4. Division of Administration.
- (s) Kentucky Center for the Arts.
 1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.
- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.

- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Governmental Services Center.
- (h) Department of Employee Insurance.
- (i) Office of Diversity, Equality, and Training.
- (j) Office of Public Affairs.

III. Other departments headed by appointed officers:

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

➔Section 3. KRS 154.12-223 is amended to read as follows:

- (1) There is created within the Cabinet for Economic Development the Department for Business Development, which shall be headed by a commissioner appointed by the Governor. The department shall work with each Kentucky county in:
 - (a) ~~{Assisting community based economic development agencies in creating and implementing their respective work plans;~~
 - ~~(b) Developing cooperative interaction}~~***Providing customer service and project management with new and***~~{with} existing industries{ and small and minority businesses and assisting export development};~~
 - (b) Overseeing programs and initiatives designed to support new investment, job creation, and retention across the state;***
 - (c) Providing sufficient technical resources to create and maintain a database to facilitate sales transactions between Kentucky businesses; ***and***
 - (d) ***Administering activities related to business site selection***~~{Assisting minority businesses with federal, state, and local government agencies, regulations, and procurement programs; and~~
 - ~~(e) Introducing entrepreneurs to individual investors and to investment capital firms interested in start up and early state financing}.~~
- (2) ~~{The Department for Business Development shall include the following divisions, each of which shall be headed by an executive director appointed by the secretary pursuant to KRS 12.050:~~
 - ~~(a) The Office of Entrepreneurship shall be responsible for various forms of small business assistance, including without being limited to:~~
 - 1. ~~Providing comprehensive information on all state business licenses and requirements;~~
 - 2. ~~Assisting businesses in the identification of government procurement opportunities;~~
 - 3. ~~Administering the innovation assistance set forth in KRS 154.12-278; and~~
 - 4. ~~Collecting, summarizing, and disseminating information helpful to small businesses, including information on:~~

- (a) ~~Market research;~~
- (b) ~~Federal, state, and local minority business programs; and~~
- (c) ~~The availability of managerial assistance.~~

~~The Commission on Small Business Advocacy established in KRS 11.200 shall advise the office on small business needs; and~~

(b) ~~The Office of Research and Public Affairs, which shall administer the following:~~

- 1. ~~Research activities related to strategic planning, business site selection, and existing industry;~~
- 2. ~~Program analysis;~~
- 3. ~~Competitive analysis;~~
- 4. ~~Communications and marketing services; and~~
- 5. ~~Event planning.~~

~~The office shall include the Division of Database and Systems Development, which shall be headed by a director appointed by the secretary pursuant to KRS 12.050.~~

(3) The following programs shall be attached to the Department for Business Development:

- (a) The Kentucky port and river development program created by KRS 65.510 to 65.530, KRS 139.483, and KRS 154.80-100 to 154.80-130; *and*
- (b) The Waterway Marina Development Program established by KRS 154.80-310; ~~and~~
- (c) ~~The Bluegrass State Skills Corporation established by KRS 154.12-205.~~

➔Section 4. KRS 154.12-224 is amended to read as follows:

- (1) There is created in the Cabinet for Economic Development the *Department for* ~~Office of~~ Financial Services. The *department* ~~office~~ shall be headed by *a commissioner* ~~an executive director~~ appointed by the secretary pursuant to KRS 154.10-050. The *department* ~~office~~ shall coordinate administration and monitoring of all financial assistance, tax credit, and related programs available for business and industry and shall provide all budgeting, accounting, personnel services, and information technology necessary for proper administration of the cabinet and cabinet programs.
- (2) The *department* ~~office~~ shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:
 - (a) The ~~Division of~~ Finance and Personnel *Division*, which shall provide financial, personnel, facility, and contract administration services;
 - (b) The Compliance Division, which shall monitor incentives and collect and maintain data on incentives after they are awarded;
 - (c) The Incentive *Administration* ~~Assistance~~ Division, which shall coordinate necessary documentation and assist the Department for Business Development in preparing recommendations and finalizing documents for presentation to the authority or other body for consideration and approval; and
 - (d) The *IT and Resource Management* Division ~~of Network Administration~~, which shall coordinate *facility services and* internal information technology needs.
- (3) The *department* ~~office~~ shall ~~also~~ include the Kentucky Economic Development Finance Authority.
- (4) *The department shall include the Bluegrass State Skills Corporation established by KRS 154.12-205.*

➔SECTION 5. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *There is created in the Cabinet for Economic Development the Office of Marketing and Public Affairs. The office shall be headed by an executive director appointed by the secretary pursuant to KRS 154.10-050. The office shall administer activities related to communications and marketing services.*
- (2) *The office shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:*

- (a) *The Communications Division; and*
- (b) *The Graphics Design Division.*

➔SECTION 6. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

There is created in the Cabinet for Economic Development the Office of Workforce, Community Development, and Research. The office shall be headed by an executive director appointed by the secretary pursuant to KRS 154.10-050. The office shall administer programs to ensure that communities and workers in the Commonwealth are equipped with resources, superior training, and skills needed to compete in the global economy and partner with appropriate organizations to ensure that companies and individuals receive the resources they need to be successful. The office shall also administer research activities related to strategic planning, business site selection, existing business development, program analysis, competitive analysis, and community development.

➔SECTION 7. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *There is created in the Cabinet for Economic Development the Office of Entrepreneurship. The office shall be headed by an executive director appointed by the secretary pursuant to KRS 154.10-050. The office shall be responsible for various forms of small business assistance, but not limited to providing customer service and project management with small and minority businesses, assisting export development, administering the innovation assistance set forth in KRS 154.12-278, introducing entrepreneurs to individual investors and to investment capital firms interested in start-up and early-stage financing, and collecting, summarizing, and disseminating information helpful to small businesses, including information on market research, federal, state, and local minority business programs, government procurement opportunities, and the availability of managerial assistance.*
- (2) *The office shall include the Commission on Small Business Advocacy established in KRS 11.200.*

➔Section 8. The General Assembly confirms Resolution 17-04 of the Kentucky Economic Development Partnership, relating to the reorganization of the Cabinet for Economic Development, to the extent it is not otherwise confirmed or superseded by this Act, this resolution having been made by the Kentucky Economic Development Partnership under the powers and authorities granted to the partnership by KRS 154.10-010, 154.10-030, and 12.028.

Signed by Governor March 29, 2018.

CHAPTER 38

(HB 33)

AN ACT relating to the overtaking of bicycles on a roadway.

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

➔Section 1. KRS 189.300 is amended to read as follows:

- (1) The operator of any vehicle when upon a highway shall travel upon the right side of the highway whenever possible, and unless the left side of the highway is clear of all other traffic or obstructions for a sufficient distance ahead to permit the overtaking and passing of another vehicle to be completed without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle being overtaken. The overtaking vehicle shall return to the proper traffic lane as soon as practicable and, if the passing vehicle enters the oncoming traffic lane, before coming within two hundred (200) feet of any approaching vehicle.
- (2) The operator of any vehicle moving slowly upon a highway shall keep his vehicle as closely as practicable to the right-hand boundary of the highway, allowing more swiftly moving vehicles reasonably free passage to the left, *unless signage or markings indicate otherwise.*

➔Section 2. KRS 189.340 is amended to read as follows:

- (1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. Vehicles overtaking streetcars may pass either

to the right or left when so directed by a police officer, when on a one (1) way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.

- (2) (a) ***Vehicles overtaking a bicycle proceeding in the same direction shall:***
 1. ***If there is more than one (1) lane for traffic proceeding in the same direction, move the vehicle to the immediate left, if the lane is available and moving in the lane is reasonably safe; or***
 2. ***If there is only one (1) lane for traffic proceeding in the same direction, pass to the left of the bicycle at a distance of not less than three (3) feet between any portion of the vehicle and the bicycle and maintain that distance until safely past the overtaken bicycle. If space on the roadway is not available to have a minimum distance of three (3) feet between the vehicle and the bicycle, then the driver of the passing vehicle shall use reasonable caution in passing the bicyclist.***
 - (b) ***The driver of a motor vehicle may drive to the left of the center of a roadway, including when a no-passing zone is marked in accordance with subsection (6) of this section, to pass a person operating a bicycle only if the roadway to the left of the center is unobstructed for a sufficient distance to permit the driver to pass the person operating the bicycle safely and avoid interference with oncoming traffic. This paragraph does not authorize driving on the left side of the center of the roadway when otherwise prohibited under state law.***
 - (c) ***The operator of a bicycle shall not ride more than two (2) abreast on a single highway lane unless operating on any part of the roadway marked exclusively for bicycle use. Persons riding two (2) abreast shall not impede the normal and reasonable movement of traffic.***
- (3) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
- (a) When the vehicle overtaken is making or about to make a left turn;
 - (b) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
- ~~(4)(3)}~~ The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a complete stop and such movement may be made safely.
- ~~(5)(4)}~~ No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within two hundred (200) feet of any vehicle approaching from the opposite direction.
- ~~(6)(5)}~~ The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey the directions thereof, ***except as provided for in subsection (2)(b) of this section.***
- ~~(7)(6)}~~ Whenever any roadway has been divided into three (3) clearly marked lanes for travel, the following additional rules shall apply:
- (a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;
 - (b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation; and
 - (c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directions of such signs.

- (8)(7) A vehicle shall not be driven in the left lane of any limited access highway of four (4) lanes or more with a posted speed limit of at least sixty-five (65) miles per hour, except in overtaking a slower vehicle, yielding to traffic coming onto such a highway, or when traffic conditions exist which would prohibit safe use of the right or center lanes.
- (9)(8) (a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.
- (b) The operator of any motor truck, semitrailer truck, bus, or heavy construction equipment unit, when traveling upon a highway outside of a business or residential district, shall not follow within two hundred fifty (250) feet of another such vehicle or equipment unit. This subsection shall not prevent overtaking and passing, nor shall it apply to any lane specially designated for use of motor trucks or semitrailer trucks, buses or heavy construction equipment units.

Signed by Governor March 29, 2018.

CHAPTER 39

(SB 122)

AN ACT relating to motorcycle safety education and making an appropriation therefor.

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

➔Section 1. KRS 15A.350 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall establish a motorcycle safety education program. The program shall provide for instructor training courses, instructor approval, and rider training courses for novice riders that shall be held at locations throughout the state. The program may provide for the following:
 - (a) Rider training courses for experienced riders;
 - (b) Activities to increase the awareness of a motorcyclist's knowledge of the effects of alcohol and drug use;
 - (c) Driver improvement efforts;
 - (d) Licensing improvement efforts;
 - (e) Program promotion activities;
 - (f) Enhancement of the public's awareness of motorcycles; and
 - (g) Enhancement of motorcycle safety through education.
- (2) The Justice and Public Safety Cabinet shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the development of standards for, and the administration of, a motorcycle safety education program. Standards for the motorcycle rider training courses shall include standards for course content, delivery, curriculum, materials, student evaluation, and the training and approval of instructors. Standards shall meet or exceed established national standards for motorcycle rider training courses prescribed by the *National Highway Traffic Safety Administration* ~~[Motorcycle Safety Foundation]~~.

➔Section 2. KRS 15A.352 is amended to read as follows:

- (1) The motorcycle safety education program shall offer motorcycle rider training courses designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the proper operation of a motorcycle. The courses shall be taught by instructors approved under KRS 15A.354 and shall include no fewer than eight (8) hours of hands-on instruction for a novice course.
- (2) Rider training courses shall be open to any resident of the state who is eligible for a motor vehicle instruction permit.
- (3) Rider training courses shall be provided free of charge to applicants under eighteen (18) years of age.

- (4) The cabinet shall issue certificates of completion in a manner and form prescribed by administrative regulations promulgated pursuant to KRS Chapter 13A to persons who satisfactorily complete the requirements of a motorcycle rider training course offered or authorized by the state program.
- (5) The Transportation Cabinet ~~shall may~~ exempt applicants for a motorcycle driver's license or endorsement from the licensing skill test if they present satisfactory evidence of successful completion of an approved rider training course that includes a similar test of skill.
- (6) (a) *The Motorcycle Safety Education Commission shall publish a list of approved rider training courses which meet the licensing requirements.*
- (b) *The Motorcycle Safety Education Commission shall publish a list of approved instructor training courses which meet the licensing requirements.*

➔Section 3. KRS 15A.354 is amended to read as follows:

- (1) The cabinet shall approve instructors for the motorcycle rider training courses. A person shall not be approved as an instructor unless the person meets the requirements of this section and administrative regulations of the cabinet and holds a currently valid instructor certification issued by the *governing body of a program approved under the provisions of subsection (6)(b) of Section 2 of this Act* ~~Motorcycle Safety Foundation~~.
- (2) The program shall offer instructor training courses to prepare instructors to teach the motorcycle rider training courses. Successful completion of the instructor training course shall require the participant to demonstrate knowledge of the course material, knowledge of proper motorcycle operation, motorcycle riding proficiency, and the necessary aptitude for instructing students. A person shall not be approved as an instructor unless the person has successfully completed the instructor training course or an equivalent course offered in another state.
- (3) The cabinet shall establish additional requirements for the approval of instructors, including but not limited to the following:
 - (a) The person shall have a high school diploma or its equivalent;
 - (b) The person shall be at least eighteen (18) years of age and hold a valid motorcycle driver's license or endorsement;
 - (c) The person shall have at least two (2) years of recent motorcycle riding experience; *and*
 - (d) The person's driver's license shall not have been suspended or revoked at any time during the preceding two (2) years or at any time within the preceding five (5) years for any alcohol or drug related offense; ~~and~~
 - ~~(e) The person shall not have been convicted of a felony.~~
- (4) In the case of a nonresident, the cabinet shall obtain and review the person's driving record from the state where the person is licensed prior to approval or reapproval of the person as an instructor.
- (5) The cabinet shall annually review the status of all approved instructors and shall withdraw approval from any instructor who is no longer qualified under the requirements of this section. The cabinet shall immediately withdraw approval of an instructor when it receives adequate notice of any disqualification.

➔Section 4. KRS 15A.356 is amended to read as follows:

- (1) The cabinet may enter into contracts with public or private entities for course delivery and for the provision of services or materials necessary for implementation of the program.
- (2) The cabinet may offer motorcycle rider training courses directly and may approve courses offered by independent public or private entities as authorized program courses if they are administered and taught in full compliance with standards established for the state program.
- (3) The cabinet may establish by administrative regulation reasonable enrollment fees to be charged for persons who participate in motorcycle rider training courses offered by the cabinet and for persons who participate in approved courses offered by independent public or private entities.
- (4) The cabinet may utilize *up to ten percent (10%) of* available program funds *each fiscal year* to defray its own expenses in offering motorcycle rider training courses and may reimburse entities that offer approved courses for the expenses incurred in offering the courses to minimize course enrollment fees charged to the students.

- (5) The cabinet shall provide meeting facilities and administrative assistance and support to the Motorcycle Safety Education Commission and the expenses shall be paid from the budget of the cabinet. The cabinet shall prepare and maintain all minutes of the commission's proceedings and shall be the custodian of all files and records of the commission.

➔Section 5. KRS 15A.358 (Effective until January 1, 2019) is amended to read as follows:

- (1) The motorcycle safety education program fund is established as a restricted fund in the State Treasury. Moneys in the fund are hereby appropriated for the purposes set forth in KRS 15A.350 to 15A.366. Moneys in the fund shall be utilized to provide motorcycle training courses as established in KRS 15A.352 and for implementation of the program, including reimbursement of entities that offer approved motorcycle rider education courses. The Justice and Public Safety Cabinet ~~may~~*shall not* deduct ***up to ten percent (10%) of available program funds per fiscal year for*** administrative costs from the motorcycle safety education program fund.
- (2) If at the end of each fiscal year money remains in the fund, it shall be retained in the fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to the motorcycle safety education program fund.
- (3) The following revenue shall be credited to the fund:
 - (a) Four dollars (\$4) of the annual registration fee for each registered motorcycle as provided in KRS 186.050;
 - (b) Four dollars (\$4) of the application fee for a motorcycle instruction permit as provided in KRS 186.531;
 - (c) Four dollars (\$4) of the fee for each original or renewal motorcycle driver's license or endorsement as provided in KRS 186.531; and
 - (d) Any federal or state motorcycle safety funds granted to the program.

➔Section 6. KRS 15A.358 (Effective January 1, 2019) is amended to read as follows:

- (1) The motorcycle safety education program fund is established as a restricted fund in the State Treasury. Moneys in the fund are hereby appropriated for the purposes set forth in KRS 15A.350 to 15A.366. Moneys in the fund shall be utilized to provide motorcycle training courses as established in KRS 15A.352 and for implementation of the program, including reimbursement of entities that offer approved motorcycle rider education courses. The Justice and Public Safety Cabinet ~~may~~*shall not* deduct ***up to ten percent (10%) of available program funds per fiscal year for*** administrative costs from the motorcycle safety education program fund.
- (2) If at the end of each fiscal year money remains in the fund, it shall be retained in the fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to the motorcycle safety education program fund.
- (3) The following revenue shall be credited to the fund:
 - (a) Four dollars (\$4) of the annual registration fee for each registered motorcycle as provided in KRS 186.050;
 - (b) Four dollars (\$4) of the application fee for a motorcycle instruction permit as provided in KRS 186.531;
 - (c) Ten dollars (\$10) of the fee for each original or renewal motorcycle driver's license or endorsement as provided in KRS 186.531; and
 - (d) Any federal or state motorcycle safety funds granted to the program.

➔Section 7. KRS 15A.362 is amended to read as follows:

- (1) The Motorcycle Safety Education Commission is established as an independent body to help foster the growth and development of the motorcycle safety education program established under KRS 15A.350.
- (2) The Motorcycle Safety Education Commission shall be composed of seven (7) members, appointed as follows:
 - (a) One (1) representative of the Department of Kentucky State Police, appointed by the Governor;
 - (b) One (1) representative of the Transportation ~~Cabinet~~*Cabinet's Division of Driver Licensing*, appointed by the Governor;
 - (c) One (1) instructor in the motorcycle safety education program, appointed by the Governor;

- (d) Two (2) members of the Kentucky Motorcycle Association, to be appointed by the Governor from a list of five (5) nominees selected by the association;
 - (e) One (1) member appointed by the Governor from a list of three (3) nominees selected by the President of the Senate; and
 - (f) One (1) member appointed by the Governor from a list of three (3) nominees selected by the Speaker of the House of Representatives.
- (3) Members of the Motorcycle Safety Education Commission shall serve a term of four (4) years. Sitting members shall be eligible to succeed themselves.
 - (4) Commission members shall receive no compensation for their services and shall not be compensated for expenses incurred from travel or in connection with the performance of their duties as commission members.
 - (5) The commission shall elect its chair and vice chair from its membership.
 - (6) The commission shall meet quarterly or upon the call of the chair or the request of the secretary of the Justice and Public Safety Cabinet.
 - (7) The commission may take action only at meetings where a quorum is present.
 - (8) The commission shall keep a record of its meetings and recommendations.

➔Section 8. KRS 15A.366 is amended to read as follows:

The cabinet shall prepare an annual report on the program to be submitted to the Governor and the Legislative Research Commission and made available to the public for review during the cabinet's normal business hours. The report shall include:

- (1) The number and location of courses offered;
- (2) The number of:
 - (a) *Applicants that have applied to be* instructors *during the previous year;*
 - (b) *Applicants approved to be instructors during the previous year; and*
 - (c) *Active instructors during the previous year*~~[approved];~~
- (3) The number of students *that registered for the various courses and the number of students that completed the*~~[trained in]~~ *various courses successfully;*
- (4) The number of permits, licenses, and registrations issued;
- (5) The amount of money collected by category for permits, licenses, and registrations;
- (6) Other information about program implementation as the cabinet shall deem appropriate; and
- (7) An assessment of the overall impact of the program on motorcycle safety in the state.

The report shall also provide a complete accounting of revenue receipts of the motorcycle safety education program fund and of all moneys expended under the program.

Became law without Governor's signature March 30, 2018.

CHAPTER 40

(HB 2)

AN ACT relating to workers' compensation.

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

➔Section 1. KRS 342.020 is amended to read as follows:

- (1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease the medical, surgical, and hospital treatment, including

nursing, medical, and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter ~~during disability,~~ **for the length of time set forth in this section,** or as may be required for the cure and treatment of an occupational disease.

- (2) ***In claims resulting in an award of permanent total disability or resulting from an injury described in subsection (9) of this section,*** the employer's obligation to pay the benefits specified in this section shall continue for so long as the employee is disabled regardless of the duration of the employee's income benefits.
- (3)
 - (a) ***In all permanent partial disability claims not involving an injury described in subsection (9) of this section, the employer's obligation to pay the benefits specified in this section shall continue for seven hundred eighty (780) weeks from the date of injury or date of last exposure.***
 - (b) ***In all permanent partial disability claims not involving an injury described in subsection (9) of this section, the commissioner shall, in writing, advise the employee of the right to file an application for the continuation of benefits as described in this section. This notice shall be made to the employee seven hundred fifty-four (754) weeks from the date of injury or last exposure.***
 - (c) ***An employee shall receive a continuation of benefits as described in this section for additional time beyond the period provided in paragraph (a) of this subsection as long as continued medical treatment is reasonably necessary and related to the work injury or occupational disease if:***
 1. ***An application is filed within seventy-five (75) days prior to the termination of the seven hundred eighty (780) week period;***
 2. ***The employee demonstrates that continued medical treatment is reasonably necessary and related to the work injury or occupational disease; and***
 3. ***An administrative law judge determines and orders that continued benefits are reasonably necessary and related to the work injury or occupational disease for additional time beyond the original seven hundred eighty (780) week period provided in paragraph (a) of this subsection.***
 - (d) ***If the administrative law judge determines that medical benefits are not reasonably necessary or not related to the work injury or occupational disease, or if an employee fails to make proper application for continued benefits within the time period provided in paragraph (c) of this subsection, any future medical treatment shall be deemed to be unrelated to the work injury and the employer's obligation to pay medical benefits shall cease permanently.***
- (4) In the absence of designation of a managed health care system by the employer, the employee may select medical providers to treat his injury or occupational disease. Even if the employer has designated a managed health care system, the injured employee may elect to continue treating with a physician who provided emergency medical care or treatment to the employee. The employer, insurer, or payment obligor acting on behalf of the employer, shall make all payments for services rendered to an employee directly to the provider of the services within thirty (30) days of receipt of a statement for services. The commissioner shall promulgate administrative regulations establishing conditions under which the thirty (30) day period for payment may be tolled. The provider of medical services shall submit the statement for services within forty-five (45) days of the day treatment is initiated and every forty-five (45) days thereafter, if appropriate, as long as medical services are rendered. Except as provided in subsection ~~(7)(4)~~ of this section, in no event shall a medical fee exceed the limitations of an adopted medical fee schedule or other limitations contained in KRS 342.035, whichever is lower. The commissioner may promulgate administrative regulations establishing the form and content of a statement for services and procedures by which disputes relative to the necessity, effectiveness, frequency, and cost of services may be resolved.
- ~~(5)(2)~~ Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, medical services and treatment provided under this chapter shall not be subject to copayments or deductibles.
- ~~(6)(3)~~ Employers may provide medical services through a managed health care system. The managed health care system shall file with the Department of Workers' Claims a plan for the rendition of health care services for work-related injuries and occupational diseases to be approved by the commissioner pursuant to administrative regulations promulgated by the commissioner.
- ~~(7)(4)~~ All managed health care systems rendering medical services under this chapter shall include the following features in plans for workers' compensation medical care:

- (a) Copayments or deductibles shall not be required for medical services rendered in connection with a work-related injury or occupational disease;
 - (b) The employee shall be allowed choice of provider within the plan;
 - (c) The managed health care system shall provide an informal procedure for the expeditious resolution of disputes concerning rendition of medical services;
 - (d) The employee shall be allowed to obtain a second opinion, at the employer's expense, from an outside physician if a managed health care system physician recommends surgery;
 - (e) The employee may obtain medical services from providers outside the managed health care system, at the employer's expense, when treatment is unavailable through the managed health care system;
 - (f) The managed health care system shall establish procedures for utilization review of medical services to assure that a course of treatment is reasonably necessary; diagnostic procedures are not unnecessarily duplicated; the frequency, scope, and duration of treatment is appropriate; pharmaceuticals are not unnecessarily prescribed; and that ongoing and proposed treatment is not experimental, cost ineffective, or harmful to the employee; and
 - (g) Statements for services shall be audited regularly to assure that charges are not duplicated and do not exceed those authorized in the applicable fee schedules.
 - (h) A schedule of fees for all medical services to be provided under this chapter which shall not be subject to the limitations on medical fees contained in this chapter.
 - (i) Restrictions on provider selection imposed by a managed health care system authorized by this chapter shall not apply to emergency medical care.
- ~~(8)(5)~~ Except for emergency medical care, medical services rendered pursuant to this chapter shall be under the supervision of a single treating physician or physicians' group having the authority to make referrals, as reasonably necessary, to appropriate facilities and specialists. The employee may change his designated physician one (1) time and thereafter shall show reasonable cause in order to change physicians.
- ~~(9)(6)~~ When a compensable injury or occupational disease results in the amputation *or partial amputation* of an arm, *hand*, leg, or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, *or permanent total or permanent partial paralysis*, the employer shall pay for, in addition to the other medical, surgical, and hospital treatment enumerated in subsection (1) and this subsection, a modern artificial member and, where required, proper braces as may reasonably be required at the time of the injury and thereafter during disability.
- ~~(10)(7)~~ Upon motion of the employer, with sufficient notice to the employee for a response to be filed, if it is shown to the satisfaction of the administrative law judge by affidavits or testimony that, because of the physician selected by the employee to treat the injury or disease, or because of the hospital selected by the employee in which treatment is being rendered, that the employee is not receiving proper medical treatment and the recovery is being substantially affected or delayed; or that the funds for medical expenses are being spent without reasonable benefit to the employee; or that because of the physician selected by the employee or because of the type of medical treatment being received by the employee that the employer will substantially be prejudiced in any compensation proceedings resulting from the employee's injury or disease; then the administrative law judge may allow the employer to select a physician to treat the employee and the hospital or hospitals in which the employee is treated for the injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employee from any physician, hospital, or attendant thereof.
- ~~(11)(8)~~ An employee who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient, or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employee claims compensation. Notwithstanding any other provision in the Kentucky Revised Statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital, or health care provider shall, within a reasonable time after written request by the employee, employer, workers' compensation insurer, special fund, uninsured employers' fund, or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury or disease for which the employee claims compensation.
- ~~(12)(9)~~ When a provider of medical services or treatment, required by this chapter, makes referrals for medical services or treatment by this chapter, to a provider or entity in which the provider making the referral has an investment interest, the referring provider shall disclose that investment interest to the employee, the

commissioner, and the employer's insurer or the party responsible for paying for the medical services or treatment, within thirty (30) days from the date the referral was made.

- (13) (a) *Except as provided in paragraphs (b) and (c) of this subsection, the employer, insurer, or payment obligor shall not be liable for urine drug screenings of patients in excess of:*
1. *One (1) per year for a patient considered to be low risk;*
 2. *Two (2) per year for a patient considered to be moderate risk; and*
 3. *Four (4) per year for patients considered to be high risk;*
- based upon the screening performed by the treating medical provider and other pertinent factors.*
- (b) *The employer, insurer, or payment obligor may be liable for urine drug screening at each office visit for patients that have exhibited aberrant behavior documented by multiple lost prescriptions, multiple requests for early refills of prescriptions, multiple providers prescribing or dispensing opioids or opioid substitutes as evidenced by the electronic monitoring system established in KRS 218A.202 or a similar system, unauthorized dosage escalation, or apparent intoxication.*
- (c) *The employer, insurer, or payment obligor may request additional urine drug screenings which shall not count toward the maximum number of drug screenings enumerated in paragraph (a) of this subsection.*
- (d) *The commissioner shall promulgate administrative regulations related to urine drug screenings as part of the practice parameters or treatment guidelines required under Section 2 of this Act.*

➔Section 2. KRS 342.035 is amended to read as follows:

- (1) Periodically, the commissioner shall promulgate administrative regulations to adopt a schedule of fees for the purpose of ensuring that all fees, charges, and reimbursements under KRS 342.020 and this section shall be fair, current, and reasonable and shall be limited to such charges as are fair, current, and reasonable for similar treatment of injured persons in the same community for like services, where treatment is paid for by general health insurers. In determining what fees are reasonable, the commissioner may also consider the increased security of payment afforded by this chapter. On or before November 1, 1994, and on July 1 every two (2) years thereafter, the schedule of fees contained in administrative regulations promulgated pursuant to this section shall be reviewed and updated, if appropriate. Within ten (10) days of April 4, 1994, the commissioner shall execute a contract with an appropriately qualified consultant pursuant to which each of the following elements within the workers' compensation system are evaluated; the methods of health care delivery; quality assurance and utilization mechanisms; type, frequency, and intensity of services; risk management programs; and the schedule of fees contained in administrative regulation. The consultant shall present recommendations based on its review to the commissioner not later than sixty (60) days following execution of the contract. The commissioner shall consider these recommendations and, not later than thirty (30) days after their receipt, promulgate a regulation which shall be effective on an emergency basis, to effect a twenty-five percent (25%) reduction in the total medical costs within the program.
- (2) No provider of medical services or treatment required by this chapter, its agent, servant, employee, assignee, employer, or independent contractor acting on behalf of any medical provider, shall knowingly collect, attempt to collect, coerce, or attempt to coerce, directly or indirectly, the payment of any charge, for services covered by a workers' compensation insurance plan for the treatment of a work-related injury or occupational disease, in excess of that provided by a schedule of fees, or cause the credit of any employee to be impaired by reason of the employee's failure or refusal to pay the excess charge. In addition to the penalty imposed in KRS 342.990 for violations of this subsection, any individual who sustains damages by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations and to recover the actual damages sustained by the individual, together with the costs of the lawsuit, including a reasonable attorney's fee.
- (3) Where these requirements are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting it. No compensation shall be payable for the death or disability of an employee if his or her death is caused, or if and insofar as his disability is aggravated, caused, or continued, by an unreasonable failure to submit to or follow any competent surgical treatment or medical aid or advice.
- (4) The commissioner shall, by December 1, 1994, promulgate administrative regulations to adopt a schedule of fees for the purpose of regulating charges by medical providers and other health care professionals for testimony presented and medical reports furnished in the litigation of a claim by an injured employee against

the employer. The workers' compensation medical fee schedule for physicians, 803 KAR 25:089, having an effective date of February 9, 1995, shall remain in effect until July 1, 1996, or until the effective date of any amendments promulgated by the commissioner, whichever occurs first, it being determined that this administrative regulation is within the statutory grant of authority, meets legislative intent, and is not in conflict with the provisions of this chapter. The medical fee schedule and amendments shall be fair, current, and reasonable and otherwise comply with this section.

- (5) (a) To ensure compliance with subsections (1) and (4) of this section, the commissioner shall promulgate administrative regulations by December 31, 1994, which require each insurance carrier, self-insured group, and self-insured employer to certify to the commissioner the program or plan it has adopted to ensure compliance.
- (b) In addition, the commissioner shall periodically have an independent audit conducted by a qualified independent person, firm, company, or other entity hired by the commissioner, in accordance with the personal service contract provisions contained in KRS 45A.690 to 45A.725, to ensure that the requirements of subsection (1) of this section are being met. The independent person, firm, company, or other entity selected by the commissioner to conduct the audit shall protect the confidentiality of any information it receives during the audit, shall divulge information received during the audit only to the commissioner, and shall use the information for no other purpose than the audit required by this paragraph.
- (c) The commissioner shall promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, self-insured group, or self-insured employer pursuant to this chapter. ***Utilization review required under administrative regulations may be waived if the insurance carrier, self-insured group, or self-insured employer agrees that the recommended medical treatment is medically necessary and appropriate or if the injured employee elects not to proceed with the recommended medical treatment.***
- (d) Periodically, or upon request, the commissioner shall report to the Interim Joint Committee on Labor and Industry of the Legislative Research Commission or to the corresponding standing committees of the General Assembly, as appropriate, the degree of compliance or lack of compliance with the provisions of this section and make recommendations thereon.
- (e) The cost of implementing and carrying out the requirements of this subsection shall be paid from funds collected pursuant to KRS 342.122.
- (6) The commissioner may promulgate administrative regulations incorporating managed care or other concepts intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.
- (7) For purposes of this chapter, any medical provider shall charge only its customary fee for photocopying requested documents. However, in no event shall a photocopying fee of a medical provider or photocopying service exceed fifty cents (\$0.50) per page. ***However, a medical provider shall not charge a fee when the initial copy of medical records is provided to the injured worker or his or her attorney in response to a written request pursuant to KRS 422.317.*** In addition, there shall be no charge for reviewing any records of a medical provider, during regular business hours, by any party who is authorized to review the records and who requests a review pursuant to this chapter.
- (8) (a) The commissioner shall develop or adopt practice parameters or ***evidence-based treatment*** guidelines for ~~medical treatment[clinical practice]~~ for use by medical providers under this chapter, ***including but not limited to chronic pain management treatment and opioid use, and promulgate administrative regulations in order to implement the developed or adopted practice parameters or evidenced-based treatment guidelines on or before December 31, 2019.*** The commissioner may adopt any parameters for ~~medical treatment[clinical practice]~~ as developed and updated by the federal Agency for Health Care Policy Research, or the commissioner may adopt other parameters for ~~medical treatment[clinical practice]~~ which are developed by qualified bodies, as determined by the commissioner, with periodic updating based on data collected during the application of the parameters.
- (b) ***The commissioner shall develop or adopt a pharmaceutical formulary for medications prescribed for the cure of and relief from the effects of a work injury or occupational disease and promulgate administrative regulations to implement the developed or adopted pharmaceutical formulary on or before December 31, 2018.***

- (c) Any provider of medical services under this chapter who has followed the practice parameters or ***treatment*** guidelines ***or formularies*** developed or adopted ***and implemented*** pursuant to this subsection shall be presumed to have met the appropriate legal standard of care in medical malpractice cases regardless of any unanticipated complication that may thereafter develop or be discovered.
- (9) (a) Notwithstanding any other provision of law to the contrary, the medical fee schedule adopted under subsection (4) of this section shall require all worker's compensation insurance carriers, worker's compensation self-insured groups, and worker's compensation self-insured employers to provide coverage and payment for surgical first assisting services to registered nurse first assistants as defined in KRS 216B.015.
- (b) The provisions of this subsection apply only if reimbursement for an assisting physician would be covered and a registered nurse first assistant who performed the services is used as a substitute for the assisting physician. The reimbursement shall be made directly to the registered nurse first assistant if the claim is submitted by a registered nurse first assistant who is not an employee of the hospital or the surgeon performing the services.

➔Section 3. KRS 342.040 is amended to read as follows:

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

➔Section 4. KRS 342.125 is amended to read as follows:

- (1) Upon motion by any party or upon an administrative law judge's own motion, an administrative law judge may reopen and review any award or order on any of the following grounds:
 - (a) Fraud;
 - (b) Newly-discovered evidence which could not have been discovered with the exercise of due diligence;
 - (c) Mistake; and
 - (d) Change of disability as shown by objective medical evidence of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.
- (2) No claim which has been previously dismissed or denied on the merits shall be reopened except upon the grounds set forth in this section.

- (3) Except for reopening solely for determination of the compensability of medical expenses, fraud, or conforming the award as set forth in KRS 342.730(1)(c)2., or for reducing a permanent total disability award when an employee returns to work, or seeking temporary total disability benefits during the period of an award, no claim shall be reopened more than four (4) years following the date of the original award or *original* order granting or denying benefits, *when such an award or order becomes final and nonappealable*, and no party may file a motion to reopen within one (1) year of any previous motion to reopen by the same party. *Orders granting or denying benefits that are entered subsequent to an original final award or order granting or denying benefits shall not be considered to be an original order granting or denying benefits under this subsection and shall not extend the time to reopen a claim beyond four (4) years following the date of the final, nonappealable original award or original order.*
- (4) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding under this chapter. Upon reopening, the administrative law judge may end, diminish, or increase compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke a previous order. The administrative law judge shall immediately send all parties a copy of the subsequent order or award. Reopening shall not affect the previous order or award as to any sums already paid thereunder, and any change in the amount of compensation shall be ordered only from the date of filing the motion to reopen. No employer shall suspend benefits during pendency of any reopening procedures except upon order of the administrative law judge.
- (5) (a) Upon the application of the affected employee, and a showing of progression of his previously-diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to that pneumoconiosis and two (2) additional years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease, the administrative law judge may review an award or order for benefits attributable to coal-related pneumoconiosis under KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.
- (b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits or income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.
- (6) In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.
- (7) Where an agreement has become an award by approval of the administrative law judge, and a reopening and review of that award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.
- (8) The time limitation prescribed in this section shall apply to all claims irrespective of when they were incurred, or when the award was entered, or the settlement approved. However, claims decided prior to December 12, 1996, may be reopened within four (4) years of the award or order or within four (4) years of December 12, 1996, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well.

➔Section 5. KRS 342.185 is amended to read as follows:

- (1) Except as provided in ~~subsections~~~~[subsection]~~ (2) *and* (3) of this section, no proceeding under this chapter for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof and unless an application for adjustment of claim for compensation with respect to the injury shall have been made with the department within two (2) years after the date of the accident, or in case of death, within two (2) years after the death, whether or not a claim has been made by the employee himself or herself for compensation. The notice and the claim may be

given or made by any person claiming to be entitled to compensation or by someone in his or her behalf. If payments of income benefits have been made, the filing of an application for adjustment of claim with the department within the period shall not be required, but shall become requisite within two (2) years following the suspension of payments or within two (2) years of the date of the accident, whichever is later.

- (2) The right to compensation under this chapter resulting from work-related exposure to the human immunodeficiency virus shall be barred unless notice of the injurious exposure is given in accordance with subsection (1) of this section and unless an application for adjustment of claim for compensation shall have been made with the commissioner within five (5) years after the injurious exposure to the virus.
- (3) ***The right to compensation under this chapter resulting from work-related exposure to cumulative trauma injury shall be barred unless notice of the cumulative trauma injury is given within two (2) years from the date the employee is told by a physician that the cumulative trauma injury is work-related. An application for adjustment of claim for compensation with respect to the injury shall have been made with the department within two (2) years after the employee is told by a physician that the cumulative trauma injury is work-related. However, the right to compensation for any cumulative trauma injury shall be forever barred, unless an application for adjustment of claim is filed with the commissioner within five (5) years after the last injurious exposure to the cumulative trauma.***

➔Section 6. KRS 342.265 is amended to read as follows:

- (1) If the employee and employer and special fund or any of them reach an agreement conforming to the provisions of this chapter in regard to compensation, a memorandum of the agreement signed by the parties or their representatives shall be filed with the commissioner, and, if approved by an administrative law judge, shall be enforceable pursuant to KRS 342.305. Where all parties have not joined in the settlement agreement, it shall not be approved unless it is certified that the party not participating in the settlement has been served with a copy of the agreement not less than ten (10) days prior to submission of the agreement for approval. This provision shall not be construed to prevent the voluntary payment of compensation for the periods and in the amounts prescribed by this chapter, but nothing shall operate as a final settlement except a memorandum of agreement filed with the commissioner and approved by the administrative law judge. Upon claims settled after December 12, 1996, the special fund shall have the option of settling its liability for income benefits on the same terms as those reached between the employee and employer. Notice of the special fund exercise of the option granted in this subsection shall be made by letter of the director of the Division of Workers' Compensation Funds mailed to the parties within ten (10) days of receipt by the director of a copy of the agreement.
- (2) Settlement agreements concluded after July 14, 2000, providing for commuted lump-sum payment of future income benefits which would otherwise be payable in amounts greater than one hundred dollars (\$100) per week shall not be approved unless there is reasonable assurance that the worker will have an adequate source of income during disability. This subsection is remedial and applies to all pending and future claims.
- (3) Upon lump-sum settlement of future periodic payments, the discount rate used in the calculation of the settlement amount shall ~~be [not exceed a reasonable amount] fixed by the commissioner. [For settlements approved after December 12, 1996, until December 31, 1997, the true discount rate shall be six percent (6%) compounded annually on each payment.]~~ Before January 1 of each year commencing in 2001, the commissioner shall fix the discount rate to be utilized in the succeeding year based at one-half of one percent (0.5%) below the interest rate paid upon ten (10) year United States Treasury Notes as of August 1 of the preceding year. ***However, upon lump-sum settlement of future periodic payments in weekly amounts that are forty dollars (\$40) or less, the commissioner shall fix the discount rate used in the succeeding year based at the interest rate paid upon ten (10) year United States Treasury Notes as of August 1 of the preceding year.***
- (4) If the parties have previously filed an agreement which has been approved by the administrative law judge, and compensation has been paid or is due in accordance therewith and the parties thereafter disagree, either party may invoke the provisions of KRS 342.125, which remedy shall be exclusive.
- (5) An application for resolution of claim shall be held in abeyance during any period voluntary payments of income benefits are being made under any benefit sections of this chapter to the maximum which the employee's wages shall entitle unless it shall be shown that the prosecution of the employee's claim would be prejudiced by delay.

➔Section 7. KRS 342.270 is amended to read as follows:

- (1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he or she shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him or her. Failure to join all accrued causes of action will result in such claims being barred under this chapter as waived by the employee.
- (2) Except with respect to claims for benefits by reason of ~~coal workers'~~ pneumoconiosis, the commissioner shall issue notice of the filing to all parties and shall promptly assign the claim to an administrative law judge. The administrative law judge shall facilitate the exchange of information pertinent to the claim pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.
- (3) Within one hundred twenty (120) days of *the effective date of this Act* ~~July 14, 2000~~, the commissioner shall promulgate *or amend existing* administrative regulations establishing procedures for the resolution of claims. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims.

➔Section 8. KRS 342.315 is amended to read as follows:

- (1) *For workers who have had injuries or occupational hearing loss*, the commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers. *For workers who have* ~~had injuries or~~ become affected by occupational diseases, *the commissioner shall contract with the University of Kentucky and the University of Louisville medical schools, or other physicians otherwise duly qualified as "B" readers who are licensed in the Commonwealth and are board-certified pulmonary specialists* ~~covered by this chapter~~. Referral for evaluation may be made ~~to one (1) of the medical schools~~ whenever a medical question is at issue.
- (2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. Except as otherwise provided in KRS 342.316, the clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.
- (3) The commissioner or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.
- (4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.
- (5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.
- (6) Not less often than annually the designee of the secretary of the Cabinet for Health and Family Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the "Guides to the Evaluation of Permanent Impairment," and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.
- (7) The General Assembly finds that good public policy mandates the realization of the potential advantages, both economic and effectual, of the use of telemedicine and telehealth. The commissioner may, to the extent that he

or she finds it feasible and appropriate, require the use of telemedicine and telehealth practices, as authorized under KRS 194A.125, in the independent medical evaluation process required by this chapter.

➔Section 9. KRS 342.316 is amended to read as follows:

- (1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator.
- (b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.
- (2) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to the disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise the employee that he or she has contracted the disease, or a diagnosis of the disease is first communicated to him or her, whichever shall first occur.
- (3) The procedure for filing occupational disease claims shall be as follows:
 - (a) The application for resolution of claim shall set forth the complete work history of the employee with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least one (1) written medical report supporting his or her claim. This medical report shall be made on the basis of clinical or X-ray examination performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The report shall be made by a duly-licensed physician. The commissioner shall promulgate administrative regulations which prescribe the format of the medical report required by this section and the manner in which the report shall be completed.
 1. For coal-related occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray interpretation by a National Institute of Occupational Safety and Health (NIOSH) certified "B" reader. The chest X-ray upon which the report is made shall be filed with the application as well as spirometric tests when pulmonary dysfunction is alleged.
 2. For other compensable occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination and appropriate pulmonary function tests.
 - (b) To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust shall comply with accepted medical standards as follows:
 1. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report. Only interpretations by National Institute of Occupational Safety and Health (NIOSH) certified "B" readers shall be admissible.
 2. Spirometric testing shall be conducted in accordance with the standards recommended in the "Guides to the Evaluation of Permanent Impairment" and the 1978 ATS epidemiology standardization project with the exception that the predicted normal values for lung function shall not be adjusted based upon the race of the subject. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water

vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken. *If it is shown that the spirometric testing is not valid due to inadequate cooperation or poor effort on the part of the claimant, the claimant's right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.*

3. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of this section. The commissioner shall periodically review the applicability of the spirometric test values contained in the "Guides to the Evaluation of Permanent Impairment" and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.
4. The procedure for determination of occupational disease claims shall be as follows:
 - a. Immediately upon receipt of an application for resolution of claim, the commissioner shall notify the responsible employer and all other interested parties and shall furnish them with a full and complete copy of the application.
 - b. The commissioner shall assign the claim to an administrative law judge and ~~except for coal workers' pneumoconiosis claims,~~ shall promptly refer the employee to ~~such physician or medical facility as the commissioner may select for examination,~~ *a duly qualified "B" reader physician who is licensed in the Commonwealth and is a board-certified pulmonary specialist as set forth pursuant to Section 8 of this Act and subsection (1) of Section 17 of this Act.* The report from this examination shall be provided to all parties of record. The employee shall not be referred by the commissioner for examination within two (2) years following any prior referral for examination for the same disease.
 - c. *The commissioner shall develop a procedure to annually audit the performance of physicians and facilities that are selected to perform examinations pursuant to this section. The audit shall include an evaluation of the physician and facility with respect to the timeliness and completeness of the reports and the frequency at which the physician's classification of an X-ray differs from those of the other physicians of that X-ray. The commissioner shall remove a physician or facility from selection consideration if the physician or facility consistently renders incomplete or untimely reports or if the physician's interpretations of X-rays are not in conformity with the readings of other physicians of record at least fifty percent (50%) of the time. The report required under this subdivision shall be provided to the Interim Joint Committee on Economic Development and Workforce Investment on or before July 1, 2019, and on or before July 1 of each year thereafter.*
 - d. *In coal workers' pneumoconiosis claims, if the physician selected by the commissioner interprets an X-ray as positive for complicated coal workers' pneumoconiosis, the commissioner shall refer the employee to the facility at which the claimant was previously evaluated for a computerized tomography scan in order to verify the findings. The computerized tomography scan shall be interpreted by the facility and a report shall be filed with the commissioner. The employer, insurer, or payment obligor shall pay the cost of the examination pursuant to the medical fee schedule. The administrative law judge may rely upon the findings in the report in accepting or rejecting ILO radiographic evidence of the disease required under Section 15 of this Act for benefit determination.*
 - e. ~~Except for coal workers' pneumoconiosis claims,~~ Within forty-five (45) days following the notice of filing an application for resolution of claim, the employer or carrier shall notify the commissioner and all parties of record of its acceptance or denial of the claim.

A denial shall be in writing and shall state the specific basis for the denial.~~[In coal workers' pneumoconiosis claims, the employer's notice of claim denial or acceptance shall be filed within thirty (30) days of the issuance by the commissioner of the notice of the consensus reading unless the consensus is that the miner has not developed coal workers' pneumoconiosis category 1/0 or greater. In the event the consensus procedure is exhausted without consensus being established, the employer's notice of claim denial or acceptance shall be filed within thirty (30) days of the commissioner notification to the administrative law judge that consensus has not been reached.]~~

- d. ~~Within forty five (45) days of assignment of a coal workers' pneumoconiosis claim to an administrative law judge, the employer shall cause the employee to be examined by a physician of the employer's choice and shall provide to all other parties and file with the commissioner the X ray interpretation by a "B" reader. The examination of the employee shall include spirometric testing if pulmonary dysfunction is alleged by the employee in the application for resolution of a claim. The commissioner shall determine whether the X ray interpretations filed by the parties are in consensus.~~
- e. ~~If the readings are not in consensus, the commissioner shall forward both films, masking information identifying the facility where the X ray was obtained and the referring physician, consecutively to three (3) "B" readers selected randomly from a list maintained by the commissioner for interpretation. Each "B" reader shall select the highest quality film and report only the interpretation of that film. The commissioner shall determine if two (2) of the X ray interpretations filed by the three (3) "B" readers selected randomly are in consensus. If consensus is reached, the commissioner shall forward copies of the report to all parties as well as notice of the consensus reading which shall be considered as evidence. If consensus is not reached, the administrative law judge shall decide the claim on the evidence submitted.~~
- f. ~~"Consensus" is reached between two (2) chest X ray interpreters when their classifications meet one (1) of the following criteria: each finds either category A, B, or C progressive massive fibrosis; or findings with regard to simple pneumoconiosis are both in the same major category and within one (1) minor category (ILO category twelve (12) point scale) of each other.~~
- ~~f{g}.~~ The administrative law judge shall conduct such proceedings as are necessary to resolve the claim and shall have authority to grant or deny any relief, including interlocutory relief, to order additional proof, to conduct a benefit review conference, or to take such other action as may be appropriate to resolve the claim.
- ~~g{h}.~~ Unless a voluntary settlement is reached by the parties, or the parties agree otherwise, the administrative law judge shall issue a written determination within sixty (60) days following a hearing. The written determination shall address all contested issues and shall be enforceable under KRS 342.305.
- h. Within thirty (30) days of the receipt of the statement for the evaluation, the employer, insurer, or payment obligor shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the employer, insurer, or payment obligor shall forward the expenses of travel necessary to attend the evaluation at the state employee reimbursement rates to the employee within seven (7) days. However, if the employee has alleged a pulmonary dysfunction but has not filed spirometric evidence as required by paragraph (a) of this subsection at the time the evaluation is scheduled by the commissioner, the employee will be responsible for fifty percent (50%) of the cost of the evaluation.*

5. The procedure for appeal from a determination of an administrative law judge shall be as set forth in KRS 342.285.

- (4) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the commissioner within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise the employee that he or she has contracted the disease, whichever shall last occur; and if death results from the occupational disease within that period, unless a claim therefor be filed with the commissioner within three (3) years

after the death; but that notice of claim shall be deemed waived in case of disability or death where the employer, or its insurance carrier, voluntarily makes payment therefor, or if the incurrence of the disease or the death of the employee and its cause was known to the employer. However, the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the commissioner within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease,~~[-or]~~ asbestos-related disease, *or a type of cancer specified in KRS 61.315(11)(b)*, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

- (b) Income benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his or her last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.
- (5) The amount of compensation payable for disability due to occupational disease or for death from the disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but:
 - (a) In no event shall the payment exceed the amounts that were in effect at the time of the last injurious exposure;
 - (b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later; and
 - (c) In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, and an employee has suffered continuous disability to the date of his or her death occurring at any time within twenty (20) years from the date of disability, his or her dependents, if any, shall be awarded compensation for his or her death as provided for under the general provisions of the Workers' Compensation Act and in this section, except as provided in KRS 342.750(6).
- (6) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or its representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.
- (7) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself or herself, in writing, as not having been previously disabled, laid-off, or compensated in damages or otherwise, because of the occupational disease, or failed or omitted truthfully to state to the best of his or her knowledge, in answer to written inquiry made by the employer, the place, duration, and nature of previous employment, or, to the best of his or her knowledge, the previous state of his or her health.
- (8) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which under the provisions of this chapter would give right to compensation, arose subsequent to the beginning of the first compensable disability, except only for after-born children of a marriage existing at the beginning of such disability.
- (9) Whenever any claimant misconceives his or her remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of the cause, that the claim for injury, disability, or death which was the basis for his or her application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for injury, disability, or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and compensation may be awarded that is warranted by the whole evidence pursuant to the provisions of this chapter. When amendment of this type is submitted, further or additional evidence may be heard when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required by this subsection.
- (10) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he or she was last injuriously exposed to the hazard of the disease, and the employer's insurance

carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, except as otherwise provided in this chapter.

- (11) (a) For claims filed on or before June 30, 2017, income benefits for coal-related occupational pneumoconiosis shall be paid fifty percent (50%) by the Kentucky coal workers' pneumoconiosis fund as established in KRS 342.1242 and fifty percent (50%) by the employer in whose employment the employee was last exposed to the hazard of that occupational disease.
- (b) Income benefits for coal-related occupational pneumoconiosis for claims filed after June 30, 2017, shall be paid by the employer in whose employment the employee was last exposed to the hazards of coal workers' pneumoconiosis.
- (c) Compensation for all other occupational disease shall be paid by the employer in whose employment the employee was last exposed to the hazards of the occupational disease.
- (12) A concluded claim for benefits by reason of contraction of coal workers' pneumoconiosis in the severance or processing of coal shall bar any subsequent claim for benefits by reason of contraction of coal workers' pneumoconiosis, unless there has occurred in the interim between the conclusion of the first claim and the filing of the second claim at least two (2) years of employment wherein the employee was continuously exposed to the hazards of the disease in the Commonwealth.

~~[(13) For coal-related occupational pneumoconiosis claims, the consensus procedure shall apply to all claims which have not been assigned to an administrative law judge prior to July 15, 2002. The consensus classification shall be presumed to be the correct classification of the employee's condition unless overcome by clear and convincing evidence. If an administrative law judge finds that the presumption of correctness of the consensus reading has been overcome, the reasons shall be specially stated in the administrative law judge's order.]~~

➔Section 10. KRS 342.320 is amended to read as follows:

- (1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge pursuant to the statutes and administrative regulations.
- (2) In an original claim, attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:
 - (a) ***For attorney-client employment contracts entered into and signed after July 14, 2000, but before the effective date of this Act***, twenty percent (20%) of the first twenty-five thousand dollars (\$25,000) of the award, fifteen percent (15%) of the next ten thousand dollars (\$10,000), and five percent (5%) of the remainder of the award, not to exceed a maximum fee of twelve thousand dollars (\$12,000). This fee shall be paid by the employee from the proceeds of the award or settlement; and
 - (b) ***For attorney-client employment contracts entered into and signed on or after the effective date of this Act, twenty percent (20%) of the first twenty-five thousand dollars (\$25,000) of the award, fifteen percent (15%) of the next twenty-five thousand dollars (\$25,000), and ten percent (10%) of the remainder of the award, not to exceed a maximum fee of eighteen thousand dollars (\$18,000). This fee shall be paid by the employee from the proceeds of the award or settlement.***~~Attorney-client employment contracts entered into and signed after July 14, 2000, shall be subject to the conditions of paragraph (a) of this subsection.~~
- (3) In approving an allowance of attorney's fees, the administrative law judge shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court.
- (4) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee shall be submitted within thirty (30) days following finality of the claim. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:
 - (a) The employee may pay the attorney's fee out of his or her personal funds or from the proceeds of a lump-sum settlement; or
 - (b) The administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly

benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.

- (5) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which the attorney's fee is to be paid. His or her selection and statement that he or she fully understands the method to be used shall be submitted by his or her attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The commissioner shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.
- (6) ~~[The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.]~~
- ~~(7)~~ In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the administrative law judge shall consider the factors set forth in subsection (3) of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded. No attorney's fee shall be allowed or approved exceeding the amounts provided in subsection (2)(a) of this section applicable to any additional amount recovered.
- ~~(7)~~~~(8)~~ Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall be subject to approval of the administrative law judge in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the limitation of ~~eighteen~~~~twelve~~ thousand dollars ~~(\$18,000)~~~~(\$12,000)~~ maximum fees except that fees for representing employers shall not be dependent upon the result achieved. Employer attorney's fees may be paid on a periodic basis while a claim is adjudicated and the payments need not be approved until the claims resolution process is completed. All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.

➔Section 11. KRS 342.610 is amended to read as follows:

- (1) Every employer subject to this chapter shall be liable for compensation for injury, occupational disease, or death without regard to fault as a cause of the injury, occupational disease, or death.
- (2) A contractor who subcontracts all or any part of a contract and his or her carrier shall be liable for the payment of compensation to the employees of the subcontractor unless the subcontractor primarily liable for the payment of such compensation has secured the payment of compensation as provided for in this chapter. Any contractor or his or her carrier who shall become liable for such compensation may recover the amount of such compensation paid and necessary expenses from the subcontractor primarily liable therefor. A person who contracts with another:
 - (a) To have work performed consisting of the removal, excavation, or drilling of soil, rock, or mineral, or the cutting or removal of timber from land; or
 - (b) To have work performed of a kind which is a regular or recurrent part of the work of the trade, business, occupation, or profession of such person

shall for the purposes of this section be deemed a contractor, and such other person a subcontractor. This subsection shall not apply to the owner or lessee of land principally used for agriculture.

- (3) Liability for compensation shall not apply ~~to~~~~where~~ injury, occupational disease, or death to the employee *if the employee willfully intended to*~~[was proximately caused primarily by voluntary intoxication as defined in KRS 501.010, or by his or her willful intention to]~~ injure or kill himself, herself, or another.
- (4) *If an employee voluntarily introduced an illegal, nonprescribed substance or substances or a prescribed substance or substances in amounts in excess of prescribed amounts into his or her body detected in the blood, as measured by a scientifically reliable test, that could cause a disturbance of mental or physical capacities, it shall be presumed that the illegal, nonprescribed substance or substances or the prescribed substance or substances in amounts in excess of prescribed amounts caused the injury, occupational*

disease, or death of the employee and liability for compensation shall not apply to the injury, occupational disease, or death to the employee.

- (5) If injury or death results to an employee through the deliberate intention of his or her employer to produce such injury or death, the employee or the employee's dependent as herein defined shall receive the amount provided in this chapter in a lump sum to be used, if desired, to prosecute the employer. The dependents may bring suit against the employer for any amount they desire. If injury or death results to an employee through the deliberate intention of his or her employer to produce such injury or death, the employee or the employee's dependents may take under this chapter, or in lieu thereof, have a cause of action at law against the employer as if this chapter had not been passed, for such damage so sustained by the employee, his dependents or personal representatives as is recoverable at law. If a suit is brought under this subsection, all right to compensation under this chapter shall thereby be waived as to all persons. If a claim is made for the payment of compensation or any other benefit provided by this chapter, all rights to sue the employer for damages on account of such injury or death shall be waived as to all persons.
- ~~(6)(5)}~~ Prior to issuing any building permit pursuant to KRS 198B.060(10), every local building official shall require proof of workers' compensation coverage from the builder before a permit is issued. A person who is exempt under the exception contained in KRS 342.650(2), and any contractor otherwise exempt from this chapter, shall so certify to the local building official, in writing and on a form prescribed by the commissioner, in lieu of providing proof of workers' compensation coverage.
- ~~(7)(6)}~~ Every employer subject to this chapter, at its principal office and such other locations where employees customarily report for payroll and personnel matters, shall post a notice stating the name of its workers' compensation insurance carrier and policy number, setting forth the means to access medical care for injuries, the employee's obligation to give notice of accidents, and such other matters concerning the employee's rights under this chapter as may be required by the commissioner so as to afford every employee the opportunity to become informed about the employer's workers' compensation program. The format and contents of the notice shall be established by the commissioner through administrative regulation, and copies shall be provided to the employer by its insurance carrier.

➔Section 12. KRS 342.700 is amended to read as follows:

- (1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against the other person to recover damages, or proceed both against the employer for compensation and the other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against the other person to recover damages, he shall give due and timely notice to the employer and the special fund of the filing of the action. If compensation is awarded *or paid* under this chapter, the employer, his insurance carrier, the special fund, *the Kentucky coal workers' pneumoconiosis fund*, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity *and medical expenses* paid and payable to *or on behalf of* the injured employee, less *a pro rata share of* the employee's legal fees and expense. The notice of civil action shall conform in all respects to the requirements of KRS 411.188(2).
- (2) A principal contractor, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any one (1) of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate, or subcontractor who pays the compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but the proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall the claim be barred by limitations, if the claim is filed against the principal or intermediate contractor within one (1) year after a final unappealed order has been rendered by an administrative law judge determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

- (3) It shall be considered to be contrary to public policy and unlawful for any owner or employer to require another employer to waive its remedies granted by this section as a condition of receiving a contract or purchase order. Furthermore, in selecting between two (2) or more contractors or suppliers, consideration may not be given by an owner or employer to whether one (1) contractor or supplier voluntarily waives its remedies under this section or offers to accept lesser compensation than another contractor or supplier for that waiver of remedies.

➔Section 13. KRS 342.730 is amended to read as follows:

- (1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:
- (a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred ~~ten~~ percent ~~(110%)~~~~((100%))~~ of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.
 - (b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than ~~eighty-two and one-half~~~~seventy-five~~ percent ~~(82.5%)~~~~((75%))~~ of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment," times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	0.65
6 to 10%	0.85
11 to 15%	1.00
16 to 20%	1.00
21 to 25%	1.15
26 to 30%	1.35
31 to 35%	1.50
36% and above	1.70

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

- (c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be multiplied by three (3) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments; or
- 2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability shall be determined under paragraph (b) of this subsection for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be two (2) times the amount otherwise payable under paragraph (b) of this subsection. This provision shall not be construed so as to extend the duration of payments.
- 3. Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, an education and age factor, when applicable, shall be added to the income benefit multiplier set forth in paragraph (c)1. of this subsection. If at the time of injury, the employee had less than eight (8) years of formal education, the multiplier shall be increased by four-tenths (0.4); if the employee had less than twelve (12) years of education or a high school Equivalency

diploma, the multiplier shall be increased by two-tenths (0.2); if the employee was age sixty (60) or older, the multiplier shall be increased by six-tenths (0.6); if the employee was age fifty-five (55) or older, the multiplier shall be increased by four-tenths (0.4); or if the employee was age fifty (50) or older, the multiplier shall be increased by two-tenths (0.2).

4. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.
- (d) For permanent partial disability, if an employee has a permanent disability rating of fifty percent (50%) or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed ~~eighty-two and one-half~~~~seventy-five~~ percent (82.5%)(75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred ~~ten~~ percent (110%)(100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.
 - (e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.
- (2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.
 - (3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his or her lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his or her death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:
 - (a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or
 - (b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or
 - (c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or
 - (d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

- (e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.
- (4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee ***reaches the age of seventy (70)*** ~~[qualifies for normal old age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f]~~, or ***four (4)*** ~~[two (2)]~~ years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate ***as of the date upon which the employee would have reached age seventy (70) or four (4) years after the employee's date of injury or date of last exposure, whichever last occurs*** ~~[when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old age Social Security retirement benefits]~~.
- (5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.
- (6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability ***plan, exclusively employer-funded disability retirement plan***, ~~for~~ ~~*exclusively employer-funded*~~ sickness and accident plan, or ***salary continuation***, which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.
- (7) ***Income benefits otherwise payable pursuant to this chapter for temporary total disability during the period the employee has returned to a light-duty or other alternative job position shall be offset by an amount equal to the employee's gross income minus applicable taxes during the period of light-duty work or work in an alternative job position.***
- (8) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.
- (9) ***Income benefits otherwise payable pursuant to this chapter for temporary total disability to a professional athlete under the direction and control of an employer that is a professional team located in Kentucky, absent any collective bargaining agreement, shall terminate no later than the date on which the contract for hire upon which the employment is based expires, so long as the professional athlete has been released to return to employment for which he or she has prior training or experience.***

➔Section 14. KRS 342.7305 is amended to read as follows:

- (1) In all claims for occupational hearing loss caused by either a single incident of trauma or by repetitive exposure to hazardous noise over an extended period of employment, the extent of binaural hearing impairment shall be determined under the "Guides to the Evaluation of Permanent Impairment."
- (2) Income benefits payable for occupational hearing loss shall be as provided in KRS 342.730, except income benefits shall not be payable where the binaural hearing impairment converted to impairment of the whole person results in impairment of less than eight percent (8%). No impairment percentage for tinnitus shall be considered in determining impairment to the whole person.
- (3) The ***commissioner*** ~~[executive director]~~ shall provide by administrative regulation for prompt referral of hearing loss claims for evaluation, for all medical reimbursement, and for prompt authorization of hearing enhancement devices.
- (4) When audiograms and other testing reveal a pattern of hearing loss compatible with that caused by hazardous noise exposure and the employee demonstrates repetitive exposure to hazardous noise in the workplace, there shall be a rebuttable presumption that the hearing impairment is an injury covered by this chapter, and the employer with whom the employee was last injuriously exposed to hazardous noise ***for a minimum duration of one (1) year of employment*** shall be exclusively liable for benefits.

➔Section 15. KRS 342.732 is amended to read as follows:

- (1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:

- (a) 1. If an employee has a radiographic classification of category 1/0, 1/1 or 1/2, coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks, except as provided in subparagraph 3. of this paragraph.
2. Except as provided in subparagraph 3. of this paragraph, these benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking the equivalent of twelve (12) or more credit hours per week in a bona fide training or education program that if successfully completed will qualify the person completing the course for a trade, occupation, or profession and which program can be completed within the period benefits are payable under this subsection. The program must be approved under administrative regulations to be promulgated by the commissioner. These benefits shall also be paid to an employee who is a part-time student taking not less than the equivalent of six (6) nor more than eleven (11) credit hours per week, except that benefits shall be an amount equal to thirty-three and one-third percent (33-1/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than thirty-seven and one-half percent (37-1/2%) of the state average weekly wage, payable biweekly for a period not to exceed two hundred eight (208) weeks.
3. These benefits shall also be paid biweekly while an employee is actively and successfully pursuing a High School Equivalency Diploma in accordance with administrative regulations promulgated by the commissioner. These benefits shall be paid in the amount of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage not to exceed seventy-five percent (75%) of the state average weekly wage for a maximum period not to exceed seventeen (17) weeks. These income benefits shall be in addition to the maximum amount of retraining incentive benefits payable under this paragraph.
4. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars (\$5,000).
5. ~~The employee shall notify the parties of his or her intention to retrain within thirty (30) days[period of weeks during which this benefit is payable shall begin no later than the thirtieth day] after the administrative law judge's order [awarding the benefit] becomes final. [except that an] The employee must initiate retraining within [may elect to defer the beginning of such benefits up to the] three hundred sixty-five (365) days of the administrative law judge's final order[fifth day following the thirtieth day the order becomes final]. [Unless the employee has requested deferral of income benefits, those]~~Income benefits payable under subparagraphs 1. and 2. of this paragraph shall begin no later than thirty (30) days following conclusion of income benefits paid under subparagraph 3. if such benefits were paid.
6. If an employee who is awarded retraining incentive benefits under this paragraph successfully completes a bona fide training or education program approved by the commissioner, upon completion of the training or education program, the employer shall pay to that employee the sum of five thousand dollars (\$5,000) for successful completion of a program that requires a course of study of not less than twelve (12) months nor more than eighteen (18) months, or the sum of ten thousand dollars (\$10,000) for successful completion of a program that requires a course of study of more than eighteen (18) months. This amount shall be in addition to retraining incentive benefits awarded under this paragraph, and tuition expenses paid by the employer.
7. An employee who is age fifty-seven (57) years or older on the date of last exposure and who is awarded retraining incentive benefits under subparagraphs 1. to 4. of this paragraph, may elect to receive in lieu of retraining incentive benefits, an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%) for a period not to exceed four hundred twenty-five (425) weeks, or until the employee reaches sixty-five (65) years of age, whichever occurs first, KRS 342.730(4) notwithstanding.
8. A claim for retraining incentive benefits provided under this section may be filed, but benefits shall not be payable, while an employee is employed in the severance or processing of coal as defined in KRS 342.0011(23).

9. If an employer appeals an award of retraining incentive benefits, upon an employee's motion, an administrative law judge may grant retraining incentive benefits pending appeal as interlocutory relief.
 10. If an employee elects to defer payment of retraining incentive benefits for a period of retraining longer than three hundred sixty-five (365) days, benefits otherwise payable shall be reduced week-for-week for each week retraining benefits are further deferred;
- (b)
1. If an employee has a radiographic classification of category 1/0, 1/1, or 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more of the predicted normal values, there shall be an irrebuttable presumption that the employee has a disability rating of twenty-five percent (25%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage, but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.
 2. An employee who is awarded benefits under this paragraph may, at the time of the award or before benefit payments begin, elect to receive retraining incentive benefits provided under paragraph (a)1. to 6. of this subsection, in lieu of income benefits awarded under this paragraph, provided that such option is available one (1) time only and is not revocable, and provided that in no event shall income benefits payable under this paragraph be stacked or added to retraining incentive income benefits paid or payable under subparagraphs 1. to 6. of paragraph (a)1. to 6. of this subsection to extend the period of disability;
- (c) If it is determined that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 3/2 or 3/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, there shall be an irrebuttable presumption that the employee has a disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of fifty percent (50%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks;
- (d) If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee has a seventy-five percent (75%) disability rating resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of seventy-five percent (75%). The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability; and
- (e) If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or complicated pneumoconiosis (large opacities category A, B, or C progressive massive fibrosis), there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty

percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.

- (2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.
- (3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his or her decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula $(103.5 - 0.42X)$, where X equals the claimant's age at the time of the arterial blood gas study.
- (4) Upon request, the commissioner shall refer an employee who has been awarded retraining incentive benefits under subsection (1)(a) of this section to the Office of Vocational Rehabilitation for evaluation and assessment of the training, education, or other services necessary to prepare the employee for a trade, occupation, or profession that will return the employee to remunerative employment, or services necessary and appropriate to prepare and enable the employee to successfully complete a bona fide training or education program approved by the commissioner. The commissioner shall contract with the Office of Vocational Rehabilitation to provide vocational rehabilitation or education services commensurate with the skill levels and abilities of the employee. Services provided under this subsection shall be funded by the coal workers' pneumoconiosis fund, KRS 342.1242 notwithstanding, for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.
- (5) The commissioner shall promulgate administrative regulations sufficient to effectuate the provisions relating to retraining incentive benefits provided under subsection (1)(a) of this section. The administrative regulations shall:
 - (a) ***Create an online portal through which employees shall select a facility or institution to provide their retraining. This portal shall list***~~Define a~~ ***bona fide training or education programs.***~~program" to mean a postsecondary education or training program, including but not limited to the~~ ***These programs shall include*** postsecondary programs registered with the Higher Education Assistance Authority, and ~~successful completion of which~~ will qualify the ***employee***~~person completing the course~~ for a trade, occupation, or profession. ***The programs listed shall be capable of completion***~~, and which program can be completed~~ within the period benefits are payable under subsection (1)(a) of this section;
 - (b) Establish requirements for approval and certification of a bona fide training or education program;
 - (c) Provide that funds paid to the training or education program by the employer as required under subsection (1)(a)4. of this section shall be applied only to instruction, tuition, material costs, and any fees necessary for the completion of the program;
 - (d) Establish requirements for successful participation in and completion of an approved and certified bona fide training or education program, and eligibility standards that must be satisfied to receive sums to be paid by the employer pursuant to subsection (1)(a)6. of this section; and
 - (e) Establish attendance, performance and progress standards, and reporting requirements in consultation with the Kentucky Adult Education Program within the Council on Postsecondary Education as conditions that must be satisfied to receive retraining incentive income benefits pursuant to subsection (1)(a)3. of this section.
- (6) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability and in no event shall income or retraining incentive benefits be paid to the employee while the employee is working in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a).

➔Section 16. KRS 342.792 is amended to read as follows:

- (1) The claim of any miner last exposed to the occupational hazards of coal workers' pneumoconiosis between December 12, 1996, and July 15, 2002, shall nonetheless be governed by the provisions of KRS 342.732 and

notwithstanding the provisions of KRS 342.125 all claims for benefits which were filed for last injurious occupational exposure to coal dust occurring between December 12, 1996, and July 15, 2002, shall be considered pursuant to the provisions of KRS 342.732 and administrative regulations promulgated by the commissioner, and closed claims, except claims dismissed for reasons other than failure to meet medical eligibility standards, may be reopened by the claimant. Income or retraining incentive benefits shall be awarded thereon as if the entitlement standards established by the amendments to KRS 342.732 were effective at the time of last exposure. Any benefits previously granted by an award or settlement shall be credited against any subsequent award or settlement and no interest shall be payable on additional benefits. A previous grant of retraining incentive benefits shall be credited only to the extent that the benefits were actually paid. All income or retraining incentive benefits greater than those which would have been awarded were not these new provisions applicable shall be paid without interest from the Kentucky coal workers' pneumoconiosis fund, the provisions of KRS 342.1242 notwithstanding, for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.

- (2) The original claim of any miner last exposed to the occupational hazards of coal workers' pneumoconiosis prior to December 12, 1996, which was subject to a university evaluation pursuant to KRS 342.315 and was dismissed upon a finding that the miner did not prove the presence of coal workers' pneumoconiosis radiographically may be reopened by the claimant notwithstanding the provisions of KRS 342.125, pursuant to administrative regulations adopted by the commissioner. Income benefits may be awarded thereon pursuant to entitlement standards effective as of the date of last exposure, except the income or retraining benefits shall be paid without interest from the Kentucky coal workers' pneumoconiosis fund, the provisions of KRS 342.1242 notwithstanding, for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.
- (3) Notwithstanding the provisions of KRS 342.316(4)(a), the coal workers' pneumoconiosis claim of any miner last exposed between December 12, 1996, and July 15, 2002, may be filed with the commissioner on or before December 12, 2003, or within the time frame prescribed by KRS 342.316(4)(a), whichever is longer. All income or retraining incentive benefits greater than those which would have been awarded were not these new provisions applicable shall be paid by the Kentucky coal workers' pneumoconiosis fund without interest, the provisions of KRS 342.1242 notwithstanding, for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.

~~{(4) Administrative regulations promulgated by the commissioner pursuant to subsections (1) and (2) of this section shall provide that chest X rays previously taken at university medical schools pursuant to KRS 342.315 shall be obtained by the commissioner and forwarded to three (3) randomly selected "B" readers for determination of consensus pursuant to KRS 342.316(3)(b)4.e. The claim shall be assigned to an administrative law judge for determination of whether the claim should be reopened and the award of additional benefits, if any.}~~

➔Section 17. KRS 342.794 is amended to read as follows:

- (1) The commissioner shall maintain a list of duly qualified "B" reader physicians who are licensed in the Commonwealth *and are board-certified pulmonary specialists, currently*~~[- The list shall include "B" reader physicians at the university medical schools and other "B" reader physicians]~~ certified by the National Institute of Occupational Safety and Health (NIOSH) who have agreed to *perform pulmonary examinations*, interpret chest X-rays, *and review other medical evidence* pursuant to KRS 342.316 for a fee to be fixed by the commissioner and paid by the Kentucky coal workers' pneumoconiosis fund *or the carrier, whichever is the appropriate payment obligor*, the provisions of KRS 342.1242 notwithstanding, for claims filed on or before June 30, 2017, and by the employer for claims filed after June 30, 2017.
- (2) ~~{Physicians from the "B" reader list shall be utilized as necessary to obtain consensus classifications of chest films in coal workers' pneumoconiosis claims. The consensus classification shall be presumed to be the correct classification of the employee's condition unless overcome by clear and convincing evidence. If an administrative law judge finds that the presumption of correctness of the consensus reading has been overcome, the reasons shall be specially stated in the administrative law judge's order.}~~
- ~~{(3)}~~ "B' reader" means a physician who has demonstrated proficiency in evaluating chest roentgenograms for roentgenographic quality and in the use of the ILO classification for interpreting chest roentgenograms for pneumoconiosis and other diseases by taking and passing a specially designed proficiency examination given on behalf of the National Institute of Occupational Safety and Health (NIOSH) or by the Appalachian Laboratory for Occupational Safety and Health (ALOSH), or successors.

- (3) *"Board-certified pulmonary specialist" means a physician licensed in the Commonwealth who is board-certified in internal medicine with a certification in the subspecialty of pulmonary medicine by the American Board of Internal Medicine*

~~{(4) The university medical schools in consultation with the commissioner shall jointly develop a procedure to annually report the performance of physicians on the "B" reader list who have participated in the consensus procedure established in KRS 342.316. The physicians shall be evaluated with respect to the timeliness and completeness of their reports, as well as the frequency at which the physician's classification of X rays differs from the consensus reading. The commissioner shall remove a physician from the "B" reader list if the physician consistently renders incomplete or untimely reports, or if the physician's interpretations of X rays are not in conformity with the consensus reading fifty percent (50%) of the time. The report required under this subsection shall be provided to the Interim Joint Committee on Labor and Industry beginning in July 1, 2003 and by July 1 of each year thereafter}.~~

➔Section 18. KRS 342.990 is amended to read as follows:

- (1) The commissioner shall initiate enforcement of civil and criminal penalties imposed in this section.
- (2) When the commissioner receives information that he or she deems sufficient to determine that a violation of this chapter has occurred, he or she shall seek civil penalties pursuant to subsections (3) to (7) of this section, criminal penalties pursuant to subsections (8) and (9) of this section, or both.
- (3) The commissioner shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.
- (4) If, within fifteen (15) working days from the receipt of the citation, a cited party fails to notify the commissioner that he or she intends to contest the citation, then the citation shall be deemed final.
- (5) If a cited party notifies the commissioner that he or she intends to challenge a citation issued under this section, the commissioner shall cause the matter to be heard as soon as practicable by an administrative law judge and in accordance with the provisions of KRS Chapter 13B. The burden of proof shall be upon the attorney representing the commissioner to prove the offense stated in the citation by a preponderance of the evidence. The parties shall stipulate to uncontested facts and issues prior to the hearing before the administrative law judge. The administrative law judge shall issue a ruling within sixty (60) days following the hearing.
- (6) A party may appeal the ruling of the administrative law judge to the Franklin Circuit Court in conformity with KRS 13B.140.
- (7) The following civil penalties shall be applicable for violations of particular provisions of this chapter:
 - (a) Any employer, insurer, or payment obligor subject to this chapter who fails to make a report required by KRS 342.038 within fifteen (15) days from the date it was due, shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense;
 - (b) Any employer, insurer, or payment obligor acting on behalf of an employer who fails to make timely payment of a statement for services under KRS 342.020~~(4)~~~~{(1)}~~ without having reasonable grounds to delay payment may be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense;
 - (c) Any person who violates KRS 342.020~~(12)~~~~{(9)}~~, 342.035(2), 342.040, 342.340, 342.400, 342.420, or 342.630 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. With respect to employers who fail to maintain workers' compensation insurance coverage on their employees, each employee of the employer and each day of violation shall constitute a separate offense. With respect to KRS 342.040, any employer's insurance carrier or other party responsible for the payment of workers' compensation benefits shall be fined for failure to notify the commissioner of a failure to make payments when due if a report indicating the reason payment of income benefits did not commence within twenty-one (21) days of the date the employer was notified of an alleged work-related injury or disease is not filed with the commissioner within twenty-one (21) days of the date the employer received notice, and if the employee has not returned to work within that period of time. The date of notice indicated in the report filed with the department pursuant to KRS 342.038(1), shall raise a rebuttable presumption of the date on which the employer received notice;
 - (d) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.395, 342.460, 342.465, or 342.470 shall be fined not less than two hundred dollars (\$200) nor more than two thousand

dollars (\$2,000) for each offense. With respect to KRS 342.395, each required notice of rejection form executed by an employee or potential employee of an employer shall constitute a separate offense;

- (e) Any person who fails to comply with the data reporting provisions of administrative regulations promulgated by the commissioner pursuant to KRS 342.039, or with utilization review and medical bill audit administrative regulations promulgated pursuant to KRS 342.035(5), shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation;
 - (f) Except as provided in paragraph (g) of this subsection, a person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) is less than or equal to three hundred dollars (\$300) shall be fined per occurrence not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater;
 - (g) Any person who violates any of the provisions of KRS 342.335(1) or (2) where the claim, compensation, benefit, or money referred to in KRS 342.335(1) or (2) exceeds three hundred dollars (\$300) shall be fined per occurrence not more than five thousand dollars (\$5,000) per individual nor ten thousand dollars (\$10,000) per corporation, or twice the amount of gain received as a result of the violation, whichever is greater;
 - (h) Any person who violates the employee leasing provision of this chapter shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) for each violation;
 - (i) Any violation of the provisions of this chapter relating to self-insureds shall constitute grounds for decertification of such self-insured, a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) per occurrence, or both; and
 - (j) Actions to collect the civil penalties imposed under this subsection shall be instituted in the Franklin District Court and the Franklin Circuit Court.
- (8) The commissioner shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the commissioner shall certify the inaction by the local prosecutor to the Attorney General who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.
- (9) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:
- (a) Any person who violates KRS 342.020(12)~~(9)~~, 342.035(2), 342.040, 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or imprisoned for not less than thirty (30) days nor more than one hundred eighty (180) days, or both;
 - (b) Any person who violates any of the provisions of KRS 342.165(2), 342.335, 342.460, 342.465, or 342.470 shall, for each offense, be fined not less than two hundred dollars (\$200) nor more than two thousand dollars (\$2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both;
 - (c) Any corporation, partnership, sole proprietorship, or other form of business entity and any officer, general partner, agent, or representative of the foregoing who knowingly utilizes or participates in any employee leasing arrangement or mechanism as defined in KRS 342.615 for the purpose of depriving one (1) or more insurers of premium otherwise properly payable or for the purpose of depriving the Commonwealth of any tax or assessment due and owing and based upon said premium shall upon conviction thereof be subject to a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisonment for not more than one hundred eighty (180) days, or both, for each offense; and
 - (d) Notwithstanding any other provisions of this chapter to the contrary, when any employer, insurance carrier, or individual self-insured fails to comply with this chapter for which a penalty is provided in subparagraphs (7), (8), and (9) above, such person, if the person is an owner in the case of a sole proprietorship, a partner in the case of a partnership, a principal in the case of a limited liability company, or a corporate officer in the case of a corporation, who knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be personally and individually liable, both jointly and severally, for the penalties imposed in the above cited subparagraphs. Neither the dissolution nor

withdrawal of the corporation, partnership, or other entity from the state, nor the cessation of holding status as a proprietor, partner, principal, or officer shall discharge the foregoing liability of any person.

- (10) Fines paid pursuant to KRS 342.267 and subsections (7) and (9) of this section shall be paid into the self-insurance fund established in KRS 342.920.
- (11) In addition to the penalties provided in this section, the commissioner and any administrative law judge or court of jurisdiction may order restitution of a benefit secured through conduct proscribed by this chapter.

➔Section 19. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 20. (1) Sections 1, 3, and 12 of this Act shall apply to any claim arising from an injury or occupational disease or last exposure to the hazards of an occupational disease or cumulative trauma occurring on or after the effective date of this Act.

(2) Sections 2, 4, and 5 and subsection (7) of Section 13 of this Act are remedial and shall apply to all claims irrespective of the date of injury or last exposure, provided that, as applied to any fully and finally adjudicated claim, the amount of indemnity ordered or awarded shall not be reduced and the duration of medical benefits shall not be limited in any way.

(3) Subsection (4) of Section 13 of this Act shall apply prospectively and retroactively to all claims:

- (a) For which the date of injury or date of last exposure occurred on or after December 12, 1996; and
- (b) That have not been fully and finally adjudicated, or are in the appellate process, or for which time to file an appeal has not lapsed, as of the effective date of this Act.

Signed by Governor March 30, 2018.

CHAPTER 41

(HB 46)

AN ACT relating to credit freezes and declaring an emergency.

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

➔Section 1. KRS 367.365 is amended to read as follows:

- (1) (a) A consumer may elect to place a security freeze on the consumer's consumer report by written request, sent by certified mail, ~~[that includes clear and proper identification,]~~ to a consumer reporting agency at an address designated by the consumer reporting agency to receive ***security freeze requests*** ~~[such request]~~, ***or by the use of telephone, fax, or Web-based or other electronic method that the consumer reporting agency has established to receive security freeze requests. A request made pursuant to this subsection shall include clear and proper identification.*** A consumer reporting agency shall place a security freeze on a consumer's consumer report no later than ten (10) business days after receiving a ~~written~~ request ***made pursuant to this subsection*** for the ***placement of a*** security freeze from the consumer.
- (b) When a security freeze is in place, information from a consumer's consumer report shall not be released to a third party without prior express authorization from the consumer. This subsection does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's consumer report.
- (2) The consumer reporting agency shall, no later than ten (10) business days after the date the agency receives the request for a security freeze, provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the access to his or her credit file for a specific period of time. In addition, the consumer reporting agency shall simultaneously provide to the consumer in writing the process of placing, removing, and temporarily lifting a security freeze and the process for allowing access to information from the consumer's credit file for a specific period while the security freeze is in effect.

- (3) A consumer may request ~~[in writing]~~ a replacement personal identification number or password ***in the same manner utilized in subsection (1) of this section to request the initial security freeze and shall also include clear and proper identification.*** ~~[The request shall comply with the requirements for requesting a security freeze under subsection (1) of this section.]~~ ***No later than ten (10) business days after the date the consumer reporting agency receives the request for a replacement personal identification number or password,*** the consumer reporting agency shall ~~[, not later than the tenth business day after the date the agency receives the request for a replacement personal identification number or password,]~~ provide the consumer with a new, unique personal identification number or password to be used by the consumer instead of the number or password that was provided under subsection (2) of this section.
- (4) If a third party requests access to a consumer report on which a security freeze is in effect, and this request is in connection with an application for credit, the third party may treat the application as incomplete.
- (5) If the consumer wishes to allow his ***or her*** consumer report or credit score to be accessed for a specific period of time while a freeze is in place, the consumer shall contact the consumer reporting agency and request that the freeze be temporarily lifted and provide the following:
- (a) Clear and proper identification;
 - (b) The unique personal identification number or password provided by the consumer reporting agency pursuant to subsection (2) or (3) of this section; and
 - (c) The proper information regarding the time period for which the report shall be available to users of the consumer report.
- (6) A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on a consumer report pursuant to subsection (5) of this section shall comply with the request no later than three (3) business days after receiving the request. A consumer reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a consumer report or credit score pursuant to subsection (5) of this section in an expedited manner.
- (7) A consumer reporting agency shall remove or temporarily lift a freeze placed on a consumer's consumer report only ~~[in the following cases]:~~
- (a) Upon ***the consumer's*** ~~[consumer]~~ request ***made pursuant to subsection (5) or (8) of this section*** ~~[as provided in this section; or]~~
 - (b) If the consumer's consumer report was frozen due to a material misrepresentation of fact by the consumer. If a consumer reporting agency intends to remove a freeze upon a consumer's consumer report pursuant to this paragraph, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's consumer report.
- (8) A security freeze shall remain in place until the consumer requests that the security freeze be removed, ***or the consumer reporting agency has notified the consumer in writing that it is removing the freeze due to a misrepresentation of fact by the consumer pursuant to subsection (7)(b) of this section*** ~~[but no longer than seven (7) years from the date the security freeze was put in place].~~ A consumer reporting agency shall remove a security freeze within three (3) business days of receiving:
- (a) ~~[A request for removal from the consumer; and, who provides]~~
 - (b) Both of the following:
 - 1. ~~[(a)]~~ Clear and proper identification; and
 - 2. ~~[(b)]~~ The unique personal identification number or password provided by the consumer reporting agency.
- (9) A security freeze does not apply to a consumer report provided to:
- (a) A federal, state, or local governmental entity, including a law enforcement agency, or court, or their agents or assigns;
 - (b) A private collection agency for the sole purpose of assisting in the collection of an existing debt of the consumer who is the subject of the consumer report requested;
 - (c) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a

financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

- (d) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (5) of this section for the purposes of facilitating the extension of credit;
 - (e) A person~~[-]~~ for the purposes of prescreening as provided by the federal Fair Credit Reporting Act;
 - (f) A consumer reporting agency for the purposes of providing a consumer with a copy of his *or her* own report on *the consumer's*~~[his]~~ request;
 - (g) A child support enforcement agency;
 - (h) A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple credit reporting agencies and does not maintain a permanent database of credit information from which new consumer reports are produced. However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer report by another consumer reporting agency;
 - (i) A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments;
 - (j) A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution;
 - (k) Any person or entity using a consumer report in preparation for a civil or criminal action, or an insurance company in investigation of a claim; or
 - (l) Any insurance company for setting or adjusting a rate or underwriting for property and casualty insurance purposes.
- (10) A consumer reporting agency may impose a reasonable charge on a consumer for initially placing, temporarily lifting, or removing a security freeze on a consumer file. The amount of the charge may not exceed ten dollars (\$10). On January 1 of each year, a consumer reporting agency may increase the charge for placing a security ~~freeze~~~~alert~~. The increase shall be based proportionally on changes to the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor with fractional changes rounded to the nearest twenty-five cents (\$0.25). ~~A~~~~[An exception shall be allowed whereby the]~~ consumer *shall not* ~~[will]~~ be charged *any fee*~~[zero dollars]~~ by the consumer reporting agency *for* placing the security freeze if the consumer is a victim of identity theft and, upon the request of the consumer reporting agency, provides the consumer reporting agency with a valid police report.
- (11) If a security freeze is in place, a consumer reporting agency shall not change any of the following official information in a consumer report without sending a written confirmation of the change to the consumer within thirty (30) days of the change being posted to the consumer's file:
- (a) Name;
 - (b) Date of birth;
 - (c) Social Security number; and
 - (d) Address.

Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

- (12) Any person who willfully fails to comply with any requirement imposed under this section with respect to any consumer is liable to that consumer in an amount equal to the sum of:

- (a) Any actual damages sustained by the consumer as a result of the failure;
 - (b) Any liquidated damages of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000);
 - (c) Any punitive damages as the court may allow; and
 - (d) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.
- (13) Any person, other than the named individual or individuals in the report, who obtains a consumer report, requests a security freeze, requests the temporary lift of a freeze, or the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or one thousand dollars (\$1,000), whichever is greater.
- (14) Any person who is negligent in failing to comply with any requirement imposed under this section with respect to any consumer is liable to that consumer in an amount equal to the sum of:
- (a) Any actual damages sustained by the consumer as a result of the failure; and
 - (b) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.
- (15) Nothing in KRS 367.363 to 367.365 shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General authorized under any other provision of law to bring or seek redress for persons that violate KRS 367.363 to 367.365.

➔Section 2. KRS 367.3645 is amended to read as follows:

- (1) For the purposes of this section:
- (a) "Protected person" means an individual who is under sixteen (16) years of age at the time a request for the placement of a security freeze is made, or who is an incapacitated person or other person for whom a guardian or conservator has been appointed;
 - (b) "Record" means a compilation of information which:
 - 1. Identifies a protected person;
 - 2. Is created by a consumer reporting agency solely for the purpose of complying with this section; and
 - 3. Is not created or used to consider the protected person's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living;
 - (c) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected person; and
 - (d) "Sufficient proof of authority" means documentation that shows a representative has authority to act on behalf of a protected person, including but not limited to:
 - 1. A court order granting custodianship, guardianship, or conservatorship;
 - 2. A birth certificate;
 - 3. A lawfully executed and valid power of attorney; or
 - 4. A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected person.
- (2) A consumer reporting agency shall place a security freeze on a protected person's record or ~~consumer credit~~ report if:
- (a) The consumer reporting agency receives a request from the protected person's representative for the placement of the security freeze; and
 - (b) The protected person's representative:
 - 1. Submits the request to the consumer reporting agency at the address designated by the consumer reporting agency to receive the request;

2. Provides to the consumer reporting agency clear and proper identification of the protected person and the representative;
 3. Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected person; and
 4. Pays to the consumer reporting agency a fee as prescribed in subsection (8) of this section.
- (3) If a consumer reporting agency does not have a file pertaining to a protected person when the consumer reporting agency receives a request pursuant to subsection (2) of this section, the consumer reporting agency shall create a record for the protected person.
- (4) Within thirty (30) days after receiving a request pursuant to this section, a consumer reporting agency shall place a security freeze on the protected person's record or ~~consumer credit~~ report.
- (5) Unless a security freeze is removed pursuant to subsection (7) or (10) of this section, a consumer reporting agency may not release the protected person's ~~consumer credit~~ report, any information derived from the protected person's ~~consumer credit~~ report, or any record created for the protected person.
- (6) A security freeze that is placed on a protected person's record or ~~consumer credit~~ report placed under this section remains in effect until either:
- (a) The protected person or the protected person's representative requests that the consumer reporting agency remove the security freeze pursuant to subsection (7) of this section; or
 - (b) The security freeze is removed pursuant to subsection (10) of this section.
- (7) (a) To remove a security freeze for a protected person, the protected person or the protected person's representative shall submit a request for the removal of the security freeze to the consumer reporting agency at the address designated by the consumer reporting agency to receive the request, and pay a fee as prescribed in subsection (8) of this section. In addition:
1. If the protected person requested the removal of the security freeze, the protected person shall provide to the consumer reporting agency ~~both either~~ of the following:
 - a. Proof that the protected person's representative no longer has sufficient proof of authority to act on behalf of the protected person; ~~and for~~
 - b. Clear and proper identification of the protected person; and
 2. If the protected person's representative requested the removal of the security freeze on behalf of the protected person, the protected person's representative shall provide to the consumer reporting agency both of the following:
 - a. Clear and proper identification of the protected person and the representative; and
 - b. Sufficient proof of authority to act on behalf of the protected person.
- (b) Within thirty (30) days after receiving a request to remove a security freeze placed pursuant to subsection (2) of this section, the consumer reporting agency shall remove the security freeze for the protected person.
- (8) A consumer reporting agency may charge a fee for each placement or removal of a security freeze on a protected person's record or ~~consumer credit~~ report. The fee may not exceed ten dollars (\$10).
- (9) Notwithstanding subsection (8) of this section, a consumer reporting agency may not charge any fee under this section if:
- (a) The protected person's representative provides a copy of a police report to the consumer reporting agency alleging that the protected person has been a victim of an offense involving identity theft; or
 - (b) A request for the placement or removal of a security freeze is for a protected person who is under sixteen (16) years of age at the time of the request and the consumer reporting agency has a ~~consumer credit~~ report pertaining to the protected person.
- (10) A consumer reporting agency may remove a security freeze for a protected person or may delete a protected person's record if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected person or the protected person's representative.

- (11) Any person who willfully fails to comply with any requirement imposed under this section with respect to any **protected person**~~consumer~~ is liable to that **person**~~consumer~~ in an amount equal to the sum of:
- (a) Any actual damages sustained by the consumer as a result of the failure;
 - (b) Any liquidated damages of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000);
 - (c) Any punitive damages as the court may allow; and
 - (d) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.
- (12) Any person, other than the named individual or individuals in the report, who obtains a consumer report, requests a security freeze, requests the temporary lift of a freeze, or requests the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or one thousand dollars (\$1,000), whichever is greater.
- (13) This section does not apply to a protected person's **consumer**~~credit~~ report or record provided to:
- (a) A federal, state, or local governmental entity, including a law enforcement agency, or court, or their agents or assigns;
 - (b) A private collection agency for the sole purpose of assisting in the collection of an existing debt of the consumer who is the subject of the consumer report requested;
 - (c) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;
 - (d) A person, for the purposes of prescreening as provided by the federal Fair Credit Reporting Act, 15 U.S.C. secs. 1681 et seq.;
 - (e) A consumer reporting agency for the purposes of providing a consumer with a copy of his or her own report on his or her request;
 - (f) A child support enforcement agency;
 - (g) A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple credit reporting agencies and does not maintain a permanent database of credit information from which new consumer reports are produced. However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer report by another consumer reporting agency;
 - (h) A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments;
 - (i) A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution;
 - (j) Any person or entity using a consumer report in preparation for a civil or criminal action, or an insurance company in investigation of a claim; or
 - (k)
 - 1. Any insurance company for setting or adjusting a rate or underwriting for property and casualty insurance purposes; or
 - 2. Any consumer reporting agency database or file which consists solely of consumer information concerning, and used solely for:

- a. Criminal record information;
- b. Personal loss history information;
- c. Fraud prevention or detection;
- d. Employment screening; or
- e. Tenant screening.

➔Section 3. Whereas the prevalence of security breaches containing sensitive identifying information of consumers is on the rise, as is the accompanying risk of identity theft for those consumers exposed as a result of these breaches, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 30, 2018.

CHAPTER 42

(HB 70)

AN ACT relating to sex offender registrants.

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

➔Section 1. KRS 17.546 is amended to read as follows:

- (1) (a) As used in this *subsection*, *"electronic communications" means any transfer of information, including signs, signals, data, writings, images, sounds, text, voice, and video, transmitted primarily through the use of electrons or electromagnetic waves or particles*~~section~~.
 - (a) ~~"Instant messaging or chat room program" means a software program that allows two (2) or more persons to communicate over the Internet in real time using typed text; and~~
 - (b) ~~"Social networking Web site" means an Internet Web site that:~~
 1. ~~Facilitates the social introduction between two (2) or more persons;~~
 2. ~~Allows a person to create a Web page or a personal profile; and~~
 3. ~~Provides a person who visits the Web site the opportunity to communicate with another person.~~
 - (b) ~~(2)~~ Except as provided in paragraph (c) of this subsection, a ~~no~~ registrant who has committed a criminal offense against a victim who is a minor after the effective date of this Act shall not knowingly or intentionally use *electronic communications for communicating with or gathering information about*~~a social networking Web site or an instant messaging or chat room program if that Web site or program allows~~ a person who is less than eighteen (18) years of age~~to access or use the Web site or program~~.
 - (c) It is not a violation of paragraph (b) of this subsection for a registrant to use *electronic communications to communicate with or gather information about a person under the age of eighteen (18) years of age if:*
 1. The registrant is the parent of the person; and
 2. The registrant is not prohibited by court order, or the terms of probation, shock probation, conditional discharge, parole, or any other form of early release, from communicating with or gathering information about a person.
- (2) ~~(3)~~ No registrant shall intentionally photograph, film, or video a minor through traditional or electronic means without the written consent of the minor's parent, legal custodian, or guardian unless the registrant is the minor's parent, legal custodian, or guardian. The written consent required under this subsection shall state that the person seeking the consent is required to register as a sex offender under Kentucky law.
- (3) ~~(4)~~ Any person who violates subsection (1) or (2) ~~or (3)~~ of this section shall be guilty of a Class A misdemeanor.

➔Section 2. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.580:

- (1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;
- (2) "Cabinet" means the Justice and Public Safety Cabinet;
- (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 3. Sex crime;
 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 5. Human trafficking involving commercial sexual activity, as set forth in KRS 529.100;
 6. Promoting human trafficking involving commercial sexual activity, as set forth in KRS 529.110;
 7. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 8. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 9. Sexual abuse, as set forth in KRS 510.120 and 510.130;
 10. Unlawful transaction with a minor in the first degree, as set forth in KRS 530.064(1)(a);
 11. Any offense involving a minor or depictions of a minor, as set forth in KRS Chapter 531;
 12. Any attempt to commit any of the offenses described in subparagraphs 1. to 11. of this paragraph; and
 13. Solicitation to commit any of the offenses described in subparagraphs 1. to 11. of this paragraph.

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) "Registrant" means:
 - (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
 1. A sex crime; or
 2. A criminal offense against a victim who is a minor; or
 - (b) Any person required to register under KRS 17.510; or
 - (c) Any sexually violent predator; or
 - (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;
- (6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, DNA sample, a photograph, aliases used, residence, ~~electronic mail address and any instant messaging, chat, or~~

~~other Internet communication name identities,~~ a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;

- (7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;
- (8) "Sex crime" means:
 - (a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, 531.320, or 531.335;
 - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or
 - (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;
- (10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
- (11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;
- (12) "Victim" has the same meaning as in KRS 421.500;
- (13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen from a person, as prescribed by administrative regulation, that is required to provide a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the Department of Kentucky State Police forensic laboratory for law enforcement identification purposes and inclusion in law enforcement identification databases; and
- (14) "Authorized personnel" means an agent of state government who is properly trained in DNA sample collection pursuant to administrative regulation.

➔Section 3. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated, by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.
- (4) The court or the official shall order the person to register with the appropriate local probation and parole office which shall obtain the person's fingerprints, DNA sample, and photograph. Thereafter, the registrant shall return to the appropriate local probation and parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained, and the registrant shall pay the cost of updating the photo for registration purposes. Any registrant who has not provided a DNA sample as of July 1, 2009, shall provide a DNA sample to the appropriate local probation and parole office when the registrant appears for a new photograph to be obtained. Failure to comply with this requirement shall be punished as set forth in subsection (11) of this section.
- (5) (a) The appropriate probation and parole office shall send the registration form containing the registrant information, fingerprint card, and photograph, and any special conditions imposed by the court or the Parole Board, to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601. The appropriate probation and parole office shall send the DNA sample to the

Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the cabinet.

- (b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.
 - (c) Any employee of the Justice and Public Safety Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (6) (a) Except as provided in paragraph (b) of this subsection, any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.
- (b) No person shall be required to register under this subsection for a juvenile adjudication if such an adjudication in this Commonwealth would not create a duty to register. This paragraph shall be retroactive.
- (7) (a) Except as provided in paragraph (b) of this subsection, if a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.
- (b) No person shall be required to register under this subsection for a juvenile adjudication if such an adjudication in this Commonwealth would not create a duty to register. This paragraph shall be retroactive.
- (8) The registration form shall be a written statement signed by the person which shall include registrant information, including an up-to-date photograph of the registrant for public dissemination.
- (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.
- (10) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.
- (b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.

2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.
 - (c) ~~If the electronic mail address or any instant messaging, chat, or other Internet communication name identities of any registrant changes, or if the registrant creates or uses any new Internet communication name identities, the registrant shall register the change or new identity, on or before the date of the change or use or creation of the new identity, with the appropriate local probation and parole office in the county in which he or she resides.~~
 - ~~(d)}~~ 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
 2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection~~[or learns of the registrant's new or changed electronic mail address or instant messaging, chat, or other Internet communication name identities under paragraph (c) of this subsection]~~, that office shall forward this information as set forth under subsection (5) of this section.
 - (11) Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
 - (12) Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
 - (13) (a) The cabinet shall verify the addresses ~~[and the electronic mail address and any instant messaging, chat, or other Internet communication name identities]~~ of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the cabinet determines that a person has moved ~~[or has created or changed any electronic mail address or any instant messaging, chat, or other Internet communication name identities used by the person]~~ without providing his or her new address, ~~[electronic mail address, or instant messaging, chat, or other Internet communication name identity]~~ to the appropriate local probation and parole office or offices as required under subsection (10)(a) ~~and~~ ~~(b)~~ ~~and (c)~~ of this section, the cabinet shall notify the appropriate local probation and parole office of the new address ~~[or electronic mail address or any instant messaging, chat, or other Internet communication name identities used by the person]~~. The office shall then forward this information as set forth under subsection (5) of this section. The cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.
 - (b) An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection:
 1. Shall consider revocation of the parole, probation, postincarceration supervision, or conditional discharge of any person released under its authority; and
 2. Shall notify the appropriate county or Commonwealth's Attorney for prosecution.
- ➔Section 4. KRS 17.580 is amended to read as follows:
- (1) The Department of Kentucky State Police shall establish a Web site available to the public. The Web site shall display:
 - (a) The registrant information, except for ~~electronic mail address or any instant messaging, chat, or other Internet communication name identities included in a registrant's registration data, as well as~~ information that identifies a victim, DNA samples, fingerprints, and Social Security numbers, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510;
 - (b) The sex offender information, except for information that identifies a victim, DNA samples, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510 prior to April 11, 2000; and

- (c) The registrant's conviction, the elements of the offense for which the registrant was convicted, whether the registrant is currently on probation or parole, and whether the registrant is compliant or noncompliant.

The Web site shall be updated every day except for Saturdays, Sundays, and state holidays.

- (2) The information pertaining to an individual shall be maintained on the Web site so long as that individual is registered in accordance with KRS 17.500 to 17.580.
- (3) ~~{The Web site shall provide public access to electronic mail addresses and any instant messaging, chat, or other Internet communication name identities used by registrants solely by use of a search function on the Web site through which members of the public may enter an electronic mail address or any instant messaging, chat, or other Internet communication name identity and receive an answer as to whether the entered identifier is included in the registrant information for any registrant.~~
- (4) ~~{~~The following language shall be prominently displayed on the Web site: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEB SITE TO HARASS A PERSON IDENTIFIED ON THIS WEB SITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEB SITE."~~}~~
- (4)~~{(5)}~~
 - (a) Any Department of Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.
 - (b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Department of Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (5)~~{(6)}~~ The cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the Web site created in this section and the location of public access to the Web site in the county where the person resides.
- (6)~~{(7)}~~ In addition to the Web site, a local law enforcement agency may provide personal notification regarding the registrants located in its jurisdiction. Any notification shall contain the warning specified in subsection (3)~~{(4)}~~ of this section.

Signed by Governor March 30, 2018.

CHAPTER 43

(HB 101)

AN ACT relating to crimes and punishments.

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

➔Section 1. KRS 510.020 is amended to read as follows:

- (1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.
- (2) Lack of consent results from:
 - (a) Forcible compulsion;
 - (b) Incapacity to consent; or
 - (c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
- (3) A person is deemed incapable of consent when he or she is:
 - (a) Less than sixteen (16) years old;

- (b) *Sixteen (16) or seventeen (17) years old and the actor is at least ten (10) years older than the victim at the time of the sexual act;*
 - (c) An individual with an intellectual disability or an individual that suffers from a mental illness;
 - (d)~~(e)~~ Mentally incapacitated;
 - (e)~~(d)~~ Physically helpless; or
 - (f)~~(e)~~ Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency.
- (4) The provisions of subsection (3)~~(f)~~~~(e)~~ of this section shall not apply to persons who are lawfully married to each other and no court order is in effect prohibiting contact between the parties.

➔Section 2. KRS 510.030 is amended to read as follows:

In any prosecution under this chapter in which the victim's lack of consent is based solely on his *or her* incapacity to consent because he *or she* was, *at the time of the offense*:

- (1) Less than sixteen (16) years old;~~;~~
- (2) *Sixteen (16) or seventeen (17) years old and the defendant was at least ten (10) years older than the victim;*
- (3) An individual with an intellectual disability;~~;~~
- (4) Mentally incapacitated;~~;~~ or
- (5) Physically helpless;~~;~~

the defendant may prove in exculpation that at the time ~~of the engaged in~~ the conduct constituting the offense he *or she* did not know of the facts or conditions responsible for such incapacity to consent.

➔Section 3. KRS 510.060 is amended to read as follows:

- (1) A person is guilty of rape in the third degree when:
 - (a) He or she engages in sexual intercourse with another person who is incapable of consent because he or she is an individual with an intellectual disability;
 - (b) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than sixteen (16) years old;
 - (c) *Being at least ten (10) years older than a person who is sixteen (16) or seventeen (17) years old at the time of sexual intercourse, he or she engages in sexual intercourse with the person;*
 - (d) Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020;
 - (e)~~(d)~~ Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in sexual intercourse with a minor under eighteen (18) years old with whom he or she comes into contact as a result of that position; or
 - (f)~~(e)~~ Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual intercourse.
- (2) Rape in the third degree is a Class D felony.

➔Section 4. KRS 510.090 is amended to read as follows:

- (1) A person is guilty of sodomy in the third degree when:
 - (a) He or she engages in deviate sexual intercourse with another person who is incapable of consent because he or she is an individual with an intellectual disability;
 - (b) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than sixteen (16) years old; or

- (c) *Being at least ten (10) years older than a person who is sixteen (16) or seventeen (17) years old at the time of deviate sexual intercourse, he or she engages in deviate sexual intercourse with the person;*
 - (d) Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020;
 - (e)~~(d)~~ Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in deviate sexual intercourse with a minor less than eighteen (18) years old with whom he or she comes into contact as a result of that position; or
 - (f)~~(e)~~ Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to deviate sexual intercourse.
- (2) Sodomy in the third degree is a Class D felony.
- ➔Section 5. This Act may be cited as Jenna's Law.

Signed by Governor March 30, 2018.

CHAPTER 44

(HB 191)

AN ACT relating to consumer protection in eye care.

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

➔Section 1. KRS 367.680 is amended to read as follows:

As used in KRS 367.680 to 367.690:

- (1) *"Assessment mechanism":*
 - (a) *Means automated or virtual equipment, application, or technology designed to be used on a telephone, a computer, or an Internet-based device that may be used either in person or remotely to conduct an eye assessment; and*
 - (b) *Includes artificial intelligence devices and any equipment, electronic or nonelectronic, that is used to perform an eye assessment;*
- (2) *"Contact lens" means any lens placed directly on the surface of the eye, regardless of whether or not it is intended to correct a visual defect, including any cosmetic, therapeutic, or corrective lens;*
- (3) *"Eye assessment" means an assessment of the ocular health and visual status of a patient that may include but is not limited to objective refractive data or information generated by an automated testing device, including an autorefractor, in order to establish a medical diagnosis for the correction of vision disorders;*
- (4) *"Person" means an individual, corporation, trust, partnership, incorporated or unincorporated association, and any other legal entity;*
- (5) *"Prescription" means a handwritten or electronic order issued by a licensed optometrist, osteopath, or physician, or an oral order issued directly by a licensed optometrist, osteopath, or physician;*
- (6) *"Seller" means an individual or entity that sells contact lenses or visual aid glasses and dispenses them to Kentucky residents in any manner; and*
- (7) *"Visual aid glasses":*

- (a) *Means eyeglasses, spectacles, or lenses designed or used to correct visual defects, including spectacles that may be adjusted by the wearer to achieve different types or levels of visual correction or enhancement; and*
- (b) *Does not include optical instrument or devices that are:*
 - 1. *Not intended to correct or enhance vision;*
 - 2. *Sold without consideration of the visual status of the individual who will use the optical instrument or device, including sunglasses that are designed and used solely to filter out light; or*
 - 3. *Completely assembled eyeglasses or spectacles designed and used solely to magnify.*

~~[(1) "Person" means an individual, corporation, trust, partnership, incorporated or unincorporated association, and any other legal entity.~~

~~[(2) "Mail order contact lens seller" means an individual or entity that sells contact lenses and dispenses them to Kentucky residents through the United States Postal Service or other common carrier.~~

~~[(3) "Contact lens prescription" means a written order bearing the original signature of a licensed optometrist, osteopath, or physician, or an oral order issued directly by a licensed optometrist, osteopath, or physician that authorizes dispensing of contact lenses to a patient. A contact lens prescription includes contact lenses without power sold for cosmetic purposes.]~~

➔Section 2. KRS 367.681 is amended to read as follows:

- (1) A contact lens prescription shall include the following:
 - (a) The ophthalmic information necessary to accurately fabricate or dispense the lenses, including the lens manufacturer, lens series, and the lens material if applicable;
 - (b) Power and base curve;
 - (c) Name, license number, telephone number, and for written orders, the signature of the prescribing optometrist, osteopath, or physician;
 - (d) Patient's name and address, expiration date of the prescription, and number of refills or lenses permitted; and
 - (e) The date of issuance.
- (2) *A contact lens*~~[The]~~ prescription may also include the diameter, axis, add power, cylinder, peripheral curve, optical zone, and center thickness.
- (3) *A prescription for visual aid glasses shall include the following:*
 - (a) *The name, license number, telephone number, and for written orders, the signature of the prescribing optometrist, osteopath, or physician;*
 - (b) *The patient's name;*
 - (c) *The date of issuance; and*
 - (d) *The value of all parameters the licensed optometrist, osteopath, or physician has deemed necessary to dispense corrective lenses appropriate for a patient.*
- (4) *A licensed optometrist, osteopath, or physician shall not refuse to release a prescription for contact lenses or visual aid glasses to a patient.*

➔Section 3. KRS 367.683 is amended to read as follows:

- (1) All ~~[mail order]~~ contact lens sellers and any person authorized in accordance with KRS Chapters 320, 315, or 326 to dispense contact lenses in the Commonwealth shall verify the contact lens prescription by the following:
 - (a) Receipt of a written or faxed valid contact lens prescription signed by the prescribing optometrist, osteopath, or physician; or
 - (b) An electronic or oral affirmative communication of the complete contact lens prescription from the prescribing optometrist, osteopath, or physician.

- (2) If a ~~{mail-order}~~ contact lens seller or any person authorized to dispense contact lenses in the Commonwealth finds it necessary to contact the prescribing optometrist, osteopath, or physician via telephone in order to verify a contact lens prescription, the following protocols shall be followed:
- (a) Calls shall be made during regular business hours;
 - (b) Any verification requests shall include the name, address, and telephone number of the patient;
 - (c) The toll-free telephone number as required by KRS 367.687(7) shall be included in voice mail or messages left on answering machines;
 - (d) Contact lens prescriptions shall not be mailed, sent, delivered, or dispensed before verification by the optometrist, osteopath, or physician;
 - (e) Touch-tone telephone options offered by a ~~{mail-order}~~ contact lens seller or any person authorized to dispense contact lenses in the Commonwealth shall not constitute verification; and
 - (f) Response-time options stated by a ~~{mail-order}~~ contact lens seller or any person authorized to dispense contact lenses in the Commonwealth shall not constitute verification.
- (3) In the absence of a prescription as defined and described in KRS 367.680 and 367.681, it shall be a violation of KRS 367.680 to 367.690 to dispense contact lenses through the mail or otherwise to a Kentucky resident.

➔Section 4. KRS 367.684 is amended to read as follows:

- (1) Any ~~{mail-order contact lens}~~ seller or any person authorized to dispense contact lenses **or visual aid glasses** in the Commonwealth who fills a ~~{contact lens}~~ prescription bears the full responsibility for the accurate dispensing of the contact lenses **or visual aid glasses** provided under the ~~{contact lens}~~ prescription. At no time shall any changes or substitutions be made including brand, type of lenses, or ophthalmic parameters without the direction of the optometrist, osteopath, or physician who issued the contact lens **or visual aid glasses** prescription.
- (2) The optometrist, osteopath, or physician shall not be liable for any damages for injury resulting from the packaging, manufacturing, or dispensing of the contact lenses **or visual aid glasses** unless the ~~{contact lens}~~ seller and the ~~{contact lens}~~ prescriber are the same person.

➔Section 5. KRS 367.685 is amended to read as follows:

A contact lens fitting shall be complete and a contact lens prescription may be written when:

- (1) The optometrist, osteopath, or physician has completed all measurements, tests, and examinations necessary to satisfy his or her professional judgment that the patient is a viable candidate to wear contact lenses, recognizing that more than one (1) visit between the patient and the optometrist, osteopath, or physician may be required; and
- (2) Contact lenses suitable for the patient's eyes have been evaluated and fitted by the optometrist, osteopath, or physician to the patient's eyes and the optometrist, osteopath, or physician is satisfied with the fitting based on **ocular health and** the visual needs of the patient.

The patient shall be entitled to receive a copy of the contact lens prescription until its expiration date.

➔Section 6. KRS 367.686 is amended to read as follows:

No person located outside of Kentucky shall ship, mail, deliver, or sell contact lenses **or visual aid glasses** to a patient at a Kentucky address unless:

- (1) Registered with the Attorney General of the Commonwealth of Kentucky; and
- (2) In possession of a valid contact lens **or visual aid glasses** prescription as defined and described in KRS 367.680 and 367.681.

➔Section 7. KRS 367.687 is amended to read as follows:

The Attorney General shall require and provide for the annual registration of all ~~{mail-order}~~ contact lens sellers located outside of the Commonwealth that dispense contact lenses to Kentucky residents, including those providing contact lenses via the Internet. A ~~{mail-order}~~ contact lens seller's registration shall be granted upon the disclosure and certification by the seller of all of the following:

- (1) The seller is licensed or registered to distribute contact lenses in the state in which the dispensing facility is located and from which the contact lenses are dispensed;

- (2) The location, names, and titles of all owners, partners, corporate officers, and the person who is responsible for overseeing the dispensing of contact lenses to residents of this state;
- (3) The seller has complied with and shall continue to comply with all lawful directives and appropriate requests for information from the appropriate agency of each state in which the seller is licensed or registered;
- (4) The seller shall respond to all requests for information from the Attorney General within thirty (30) days from receipt of the request;
- (5) The seller shall maintain records of contact lenses dispensed to residents of this state for a period of ten (10) years, and that the records shall be readily available for inspection by the Attorney General upon demand;
- (6) The seller shall provide a toll-free telephone service during its regular hours of operation for the sole purpose of responding to the patients in this state concerning questions and complaints. All questions relating to eye care shall be referred to the doctor prescribing the contact lenses;
- (7) The seller shall provide a toll-free telephone service during its regular hours of operation solely for optometrists, osteopaths, and physicians.
- (8) The seller shall provide the following or a substantially equivalent written notification to the patient whenever contact lenses are supplied: **WARNING: IF YOU ARE HAVING ANY OF THE FOLLOWING SYMPTOMS REMOVE YOUR CONTACT LENSES IMMEDIATELY AND CONSULT YOUR EYE CARE PRACTITIONER BEFORE WEARING YOUR LENSES AGAIN: UNEXPLAINED EYE DISCOMFORT, WATERING, VISION CHANGE, OR REDNESS;** and
- (9) The seller's license or registration, in the state in which the seller is licensed or registered, has not been suspended or revoked, but should the seller be the subject of any investigation undertaken by the licensing or registering state, or should the seller's license or registration be suspended or revoked, then the seller shall immediately notify the Attorney General of such actions.

➔SECTION 8. A NEW SECTION OF KRS 367.680 TO 367.690 IS CREATED TO READ AS FOLLOWS:

- (1) *An assessment mechanism to conduct an eye assessment or to generate a prescription for contact lenses or visual aid glasses to a patient in Kentucky shall:*
 - (a) *Provide synchronous or asynchronous interaction between the patient and the Kentucky-licensed optometrist, osteopath, or physician;*
 - (b) *Collect the patient's medical history, previous prescription for corrective eyewear, and length of time since the patient's most recent in-person comprehensive eye health examination;*
 - (c) *Provide any applicable accommodation required by the federal Americans with Disabilities Act, 42 U.S.C. sec. 12101 et seq., as amended;*
 - (d) *Gather and transmit protected health information in compliance with the federal Health Insurance Portability and Accountability Act of 1996 as amended;*
 - (e) *Be used to perform a procedure with a recognized Current Procedural Terminology code maintained by the American Medical Association, if applicable; and*
 - (f) *Maintain liability insurance, through its owner or lessee, in an amount adequate to cover claims made by individuals diagnosed or treated based on information and data, including any photographs and scans, generated by the assessment mechanism.*
- (2) *A Kentucky-licensed optometrist, osteopath, or physician shall:*
 - (a) *Read and interpret the diagnostic information and data, including any photographs and scans, gathered by the assessment mechanism;*
 - (b) *Verify the identity of the patient requesting treatment via the assessment mechanism;*
 - (c) *Create and maintain a medical record for each patient, which is for use during the ongoing treatment of a patient, and complies with all state and federal laws regarding maintenance and accessibility;*
 - (d) *Provide a handwritten or electronic signature, along with their Kentucky state license number, certifying their diagnosis, evaluation, treatment, prescription, or consultation recommendations of the patient;*

- (e) *Utilize an assessment mechanism for an eye assessment or to generate a prescription for visual aid glasses only if:*
 - 1. *The patient is at least eighteen (18) years of age; and*
 - 2. *The patient has received an in-person comprehensive eye health examination by an optometrist, osteopath, or physician within the previous twenty-four (24) months; and*
- (f) *Utilize an assessment mechanism to generate a prescription for contact lenses only if:*
 - 1. *The patient is at least eighteen (18) years of age; and*
 - 2. *The patient has received an in-person comprehensive eye health examination by an optometrist, osteopath, or physician:*
 - a. *For the initial prescription and one (1) follow-up or first renewal of the initial prescription; or*
 - b. *Within twenty-four (24) months after the follow-up or first renewal of the initial prescription, and every twenty-four (24) months thereafter.*
- (3) *Prior to using an assessment mechanism, each Kentucky patient shall be provided with and shall accept as a term of use a disclosure that includes the following information:*
 - (a) *This assessment is not a replacement for an in-person comprehensive eye health examination;*
 - (b) *This assessment cannot be used to generate an initial prescription for contact lenses or a follow-up or first renewal of the initial prescription;*
 - (c) *This assessment may only be used if the patient has had an in-person comprehensive eye health examination within the previous twenty-four (24) months if the patient is conducting an eye assessment or receiving a prescription for visual aid glasses; and*
 - (d) *The United States Centers for Disease Control and Prevention (CDC) advises contact lens wearers to visit an eye doctor one (1) time a year or more often if needed.*
- (4) *Evaluation, treatment, and consultation recommendations by a Kentucky-licensed optometrist, osteopath, or physician utilizing an assessment mechanism as required in this section, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional in-person clinical settings.*
- (5) *This section shall not:*
 - (a) *Limit the discretion of a Kentucky-licensed optometrist, osteopath, or physician to direct a patient to utilize any telehealth service deemed appropriate for any treatment and care of the patient;*
 - (b) *Limit the sharing of patient information, in whatever form, between an optometrist, osteopath, or physician; or*
 - (c) *Apply beyond ocular health and eye care.*

➔Section 9. KRS 367.688 is amended to read as follows:

The Attorney General shall charge a fee for investigation and registration of nonresident dispensers of contact lenses *and visual aid glasses*.

➔Section 10. KRS 367.690 is amended to read as follows:

- (1) Any person who dispenses, offers to dispense, or attempts to dispense contact lenses *or visual aid glasses* in violation of KRS 367.680 to 367.690 or the administrative regulations promulgated by the Attorney General concerning the dispensing of contact lenses *or visual aid glasses* shall, in addition to any other penalty provided by law, pay a civil penalty to the office of the Attorney General in an amount not to exceed *eleven thousand dollars (\$11,000)* ~~five thousand dollars (\$5,000)~~ for each violation.
- (2) Any person charged in a complaint filed by the Attorney General with violating any of the provisions of KRS 367.680 to 367.690 shall be entitled to an administrative hearing conducted in accordance with ~~the provisions of~~ KRS Chapter 13B.
- (3) Any person aggrieved by a final order issued under the authority of this section shall have the right of an appeal by filing a petition with the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔SECTION 11. A NEW SECTION OF KRS 367.680 TO 367.690 IS CREATED TO READ AS FOLLOWS:

KRS 367.680 to 367.690 may be cited as the Consumer Protection in Eye Care Act.

Signed by Governor March 30, 2018.

CHAPTER 45

(HB 223)

AN ACT relating to public housing authorities.

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

➔Section 1. KRS 80.030 is amended to read as follows:

- (1) ***Except as provided in subsection (2) of this section***, a city housing authority shall consist of the mayor, ex officio, or his designee, and four (4) persons appointed by him with the approval of the city legislative body.
- (2) ***If a city housing authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, the housing authority shall consist of the mayor, ex officio, or the mayor's designee; four (4) persons appointed by the mayor with the approval of the city legislative body; and one (1) additional person appointed by each mayor of a city divesting itself of its authority, with the approval of that city's legislative body.***

➔Section 2. KRS 80.040 is amended to read as follows:

- (1) (a) Each person appointed to a city housing authority shall be at least twenty-five (25) years of age and a bona fide resident of the city for which he was appointed for at least one (1) year preceding the appointment. No officer or employee of the city, whether holding a paid or unpaid office, is eligible to hold an appointment on the housing authority. ~~[No more than two (2) appointees on any city housing authority shall be affiliated with the same political party.]~~ Appointees to a city housing authority shall be originally appointed for terms of four (4) years. Upon the expiration of the term of the first appointees, their successors shall be appointed for terms of one (1), two (2), three (3) and four (4) years, respectively, and upon the expiration of the term of each of the second group of appointees his successor shall be appointed for a term of four (4) years. Vacancies shall be filled for unexpired terms in the same manner as the original appointment.
- (b) ***If a city housing authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, an authority member appointed by the mayor of the divesting city, as set out in Section 1 of this Act, shall be a resident of the city divesting itself of authority.***
- (2) (a) ***If a city housing authority has not agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, then no more than two (2) appointees on any city housing authority shall be affiliated with the same political party.***
- (b) ***If a city housing authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, and:***
 1. ***Has an even number of members, then no more than half of the appointees on any city housing authority shall be affiliated with the same political party; or***
 2. ***Has an odd number of members, then no more than half of the appointees plus one (1) member of any city housing authority shall be affiliated with the same political party.***

➔Section 3. KRS 80.060 is amended to read as follows:

- (1) Each member of a housing authority, except an ex officio member, may receive compensation either as a salary or as payment for meetings attended. The compensation of members of a housing authority shall be

fixed by the legislative body of the city. The housing authority shall fix the compensation of the secretary and treasurer, but the city legislative body may fix or limit the salary.

- (2) *If a city housing authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, the city may enter into an interlocal agreement pursuant to KRS 65.210 to 65.300 with the city that is divesting itself of the authority, agreeing to pay all or a portion of the compensation of the member representing that divesting city.*

➔Section 4. KRS 80.266 is amended to read as follows:

- (1) (a) *Except as provided in paragraph (b) of this subsection, the city-county housing authority shall be composed of eight (8) members. The mayor shall appoint four (4) members, and the county judge/executive shall appoint four (4) members. No more than four (4) appointees on any housing authority shall be affiliated with the same political party.*
- (b) 1. *If a city-county housing authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, the housing authority shall be composed of four (4) members appointed by the mayor, four (4) members appointed by the county judge/executive, and one (1) additional person appointed by each mayor of a city divesting itself of its authority, with the approval of that city's legislative body.*
2. *If a city-county housing authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, and:*
- a. *Has an even number of members, then no more than half of the appointees on any city-county housing authority shall be affiliated with the same political party; or*
- b. *Has an odd number of members, then no more than half of the appointees plus one (1) member of any city-county housing authority shall be affiliated with the same political party.*
- (2) Each person appointed to a city-county housing authority shall be at least twenty-five (25) years of age and a bona fide resident of the city or county for which he was appointed for at least one (1) year preceding the appointment. No officer or employee of the city or county, whether holding a paid or unpaid office, is eligible to hold an appointment on the housing authority. No more than two (2) appointees by the mayor or no more than two (2) appointees by the county judge/executive shall be affiliated with the same political party. Two (2) of the four (4) members appointed by the mayor shall be designated to serve for terms of two (2) years and two (2) for terms of four (4) years, respectively, from the date of their appointments. Two (2) of the four (4) members appointed by the county judge/executive shall be designated to serve for terms of two (2) years, and two (2) for terms of four (4) years, respectively, from the date of their appointments. Thereafter, all members of the city-county housing authority shall be appointed as aforesaid for a term of office of four (4) years, except that all vacancies shall be filled for the unexpired terms.
- (3)~~(2)~~ (a) Each member of a city-county housing authority may receive compensation either as a salary or as payment for meetings attended. Any compensation of the members of a city-county housing authority shall be fixed by the legislative body of the city and the county. The housing authority may fix the compensation of the secretary and treasurer, but the city and county legislative bodies may fix or limit the salary.
- (b) *If a city-county housing authority has agreed to accept a transfer or full transfer of ownership and operation of another city's public housing program pursuant to the United States Housing Act of 1937, the city and county that are members of the housing authority may enter into an interlocal agreement pursuant to KRS 65.210 to 65.300 with the city that is divesting itself of the authority, agreeing to pay all or a portion of the compensation of the member representing that divesting city.*

Signed by Governor March 30, 2018.

CHAPTER 46**(HB 260)**

AN ACT relating to licensed occupations, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. KRS 317.410 is amended to read as follows:

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

- (1) A "barber" is any person who engages in the practice of "barbering" for the public generally or for consideration;
- (2) "Barbering" is the practice upon the human neck, *face*, and head, principally of shaving or trimming the beard or cutting the hair, but includes also:
 - (a) Giving facial and scalp massage or treatments with oils, creams, lotions, or other preparations, either by hand or any contrivance;
 - (b) Singeing, shampooing, pressing, arranging, dressing, *styling*, or dyeing the hair or applying hair tonics; and
 - (c) Applying to the neck or head cosmetics, lotions, powders, oils, clays, or other preparations;
- (3) "Barber pole" means a cylinder or pole with alternating stripes of any combination, including but not limited to red and white, or red, white, and blue, which run diagonally along the length of the pole;
- (4) "Barber school" or "school of barbering" means an operation, place, or establishment ~~of whatsoever kind or form~~ in or through which persons are trained or taught the practice of barbering;
- (5) "Barber shop" is any establishment ~~of whatsoever kind~~ in which the practice of barbering is conducted for the general public or for consideration;
- (6) "Board" means the Kentucky Board of Barbering;
- (7) *"Endorsement" means the process of granting a license under this chapter to an applicant licensed in another state;*
- (8) "Independent contract owner" means any barber *or apprentice barber* licensed under this chapter who leases or rents space in a barber shop; and
- ~~(9)~~~~(8)~~ "Lapse fees" means the annual renewal license fee which would have been paid for the period during which a license has lapsed.

➔Section 2. KRS 317.420 is amended to read as follows:

- (1) No person shall engage in the practice of "barbering" for other than cosmetic purposes nor shall any person engage in barbering for the treatment of physical or mental ailments, except that the provisions of this chapter shall not apply to:
 - (a) Persons authorized by the law of this state to practice medicine, chiropody, optometry, dentistry, chiropractic, nursing, or embalming when incidental practices of barbering are performed by them in the normal course of the practice of their profession;
 - (b) Commissioned medical or surgical personnel of the United States *Armed Forces* ~~[Army, Navy, Air Force, or Marine Hospital Service]~~ performing incidental practices of barbering in the course of their duties; or
 - (c) Barbering services performed at an institution operated by or under contract to the Department of Corrections or the Department of Juvenile Justice.
- (2) Except as provided in subsection (1) of this section, no person shall engage in the practice of barbering for the public generally or for consideration without the appropriate license required by this chapter.
- (3) No person, unless duly and properly licensed pursuant to this chapter, shall:
 - (a) Teach barbering;
 - (b) Operate a barber shop;

- (c) Conduct or operate a school for barbers; or
- (d) Lease or rent booth space as an independent contract owner.
- (4) No person shall aid or abet any person in violating the provisions of this section, nor shall any person engage or employ for consideration any person for the performance of any practice licensed by this chapter unless the person to perform such practice holds and displays the appropriate license therefor.
- (5) Except as provided in this chapter, no person or business shall:
 - (a) Advertise barbering services, unless the person or business and the personnel it employs are licensed under this chapter; or
 - (b) ***Advertise as a barber shop, unless all persons in the shop practicing barbering services are licensed under this chapter. Any barber practicing in a shop licensed as both a barber shop and a salon licensed under KRS Chapter 317A may display an image, that is at least four (4) inches high, of a barber pole at his or her station; or***
 - (c) Use or display a barber pole for the purpose of advertising barbering services to the public unless it:
 - 1. Has a barber shop license; and
 - 2. Employs a barber licensed under this chapter.
- (6) ***A person holding an active barber license from the board and who practices in a shop licensed by the board may render services for pay or otherwise to:***
 - (a) ***A person suffering from a terminal illness who is receiving the services of a hospice program either at home or at a hospice inpatient unit; or***
 - (b) ***A person who is deceased and in the care of a funeral establishment.***

➔Section 3. KRS 317.430 is amended to read as follows:

- (1) There is hereby created an independent agency of the state government to be known as the Kentucky Board of Barbering, which shall have complete supervision over the administration of the provisions of this chapter relating to barbers, barbering, barber shops, independent contract owners, barber schools, and the teaching of barbering.
- (2) The ~~{Kentucky Board of Barbering, hereinafter referred to as the barber board or }~~board~~},~~ shall be composed of five (5) members appointed by the Governor. Four (4) members shall be barbers holding a valid license and practicing in Kentucky. One (1) member shall be a citizen at large who is not associated with or financially interested in barbering. At all times in the filling of vacancies of membership on the barber board, this balance of representation shall be maintained.
- (3) The two (2) members appointed to fill the terms beginning on February 1, 2008, shall serve until February 1, 2011, and the three (3) members appointed to fill the terms beginning on February 1, 2007, shall serve until February 1, 2010. All subsequent appointments shall be for a term of three (3) years, with terms ending on February 1.
- (4) The Governor shall not remove any member of the ~~{barber }~~board except for cause.
- (5) The ~~{barber }~~board shall elect from its members one (1) to serve as chairman, one (1) to serve as vice chairman, and a third to serve as secretary.
- (6) Three (3) members shall constitute a quorum for the transaction of business.
- (7) In addition to the other qualifications specified in this section, barber members of the ~~{barber }~~board shall be at least twenty-three (23) years of age, citizens of the United States, residents of Kentucky, and must have engaged in the practice of barbering in this state for a period of at least five (5) years.
- (8) No member of the ~~{barber }~~board shall be financially interested in, or have any financial connection with, any barber or cosmetology school, wholesale cosmetic or barber supply or equipment business, nor shall any member of the barber board teach barbering, cosmetology, or manicuring for monetary considerations.
- (9) Each member of the ~~{barber }~~board shall receive a compensation of one hundred dollars (\$100) per day for each day of attendance at a meeting of the board, and shall be reimbursed for necessary traveling expenses.
- (10) The board shall hold its meetings within the state and when deemed necessary by the board to discharge its duties.

➔Section 4. KRS 317.440 is amended to read as follows:

- (1) To protect the health and safety of the public ~~and for~~ to protect the public against misrepresentation, deceit, or fraud in the practice or teaching of barbering, the board shall promulgate administrative regulations governing the:
 - (a) Location and housing of barber shops or schools;
 - (b) Quantity and quality of equipment, supplies, materials, records, and furnishings required in barber shops or schools;
 - (c) Qualifications of teachers of barbering;
 - (d) Qualifications of applicants to or enrollees in barber schools;
 - (e) Hours and courses of instruction at barber schools;
 - (f) Examinations of applicants for barber or teacher of barbering; and
 - (g) Qualifications of independent contract owners.
- (2) The board shall establish fees by administrative regulation ~~according to the schedules established in KRS 317.450~~.
- (3) Administrative regulations pertaining to health and sanitation shall be approved by the Kentucky secretary for health and family services before becoming effective.

➔Section 5. KRS 317.450 is amended to read as follows:

- (1) (a) The board shall issue ***an apprentice*** ~~a probationary~~ license to practice barbering to any person who:
 1. Is at least seventeen and one-half (17-1/2) years of age;
 2. Is of good moral character and temperate habit;
 3. Possesses a high school diploma, a High School Equivalency Diploma, or a transcript from an issuing institution that is recognized by the educational authority in the state from which the diploma, certificate, or transcript is issued;
 4. Has graduated from a licensed school of barbering;
 5. Has satisfactorily passed the ***apprentice*** ~~probationary~~ examination prescribed by the barber board, which shall include a practical assessment of the applicant's skills, including but not limited to a ***taper*** haircut, ***shampoo***, ***straight razor facial shave***, ***facial***, and a chemical application; and
 6. Has paid a fee ***as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A*** ~~not to exceed fifty dollars (\$50)~~.
- (b) A barber shall serve ***an apprentice*** ~~a probationary~~ period of ***at least*** six (6) months ***but not more than nine (9) months*** of continuous service from the effective date of the license issued pursuant to paragraph (a) of this subsection.
- (c) In addition to the grounds for disciplinary action specified in KRS 317.590, the board may, during the ***apprentice*** ~~probationary~~ period, require a licensee to retake any part or all of the written or practical examination, or both.
- (d) At the end of the ***apprentice*** ~~probationary~~ period, the board shall issue a license to practice barbering to ***an apprentice*** ~~a probationary~~ licensee who has:
 1. Satisfactorily passed the barber examination prescribed by the board by administrative regulations promulgated in accordance with KRS Chapter 13A; and
 2. Complied with all other requirements of this subsection.
- (e) The board may issue a barber license by endorsement to a resident of another state, district, or territory within the United States of America upon payment of a fee ***as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A***, ~~not to exceed two hundred fifty dollars (\$250)~~ and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. In the absence of the required equivalency, an applicant from another state, district, or territory within the

United States of America, shall show proof of three (3) years or more experience immediately before making application and be currently licensed and in good standing with the state, district, or territory in which he or she is licensed. The board may also require an applicant under this section to pass a written and practical examination to establish equivalency.

(2) The board shall:

- (a) Issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application and payment of a fee *as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A* ~~not to exceed fifty dollars (\$50)~~;
- (b) Refuse to issue the license upon a failure of the licensed barber to comply with the provisions of this chapter or the administrative regulations promulgated by the board;
- (c) Allow the licensed owner of a barber shop, which is licensed under this chapter, to rent or lease space in his or her barber shop to an independent contract owner; and
- (d) Allow an unlicensed owner of a barber shop ~~[which is licensed under this chapter and managed by a barber licensed under this chapter.]~~ to rent or lease space in his or her barber shop to an independent contract owner, *only if the shop owner has a licensed barber as a manager of the shop at all times. If the owner, manager, or location of a barber shop changes, the required form and fee shall be submitted to the board.*

(3) The board shall issue a license to operate a school of barbering to any person, firm, or corporation who or which:

- (a) Applies for a license upon forms furnished by the board;
- (b) Has the equipment and facilities that may be required by administrative regulations promulgated by the board;
- (c) Has furnished adequate evidence to the board that:
 - 1. There is an intent to establish a bona fide school for the education and training of competent barbers; and
 - 2. A sufficient number of teachers licensed by the board will be employed to conduct the school, including at least one (1) teacher with a minimum of *thirty six (36)* ~~twelve (12)~~ months' experience teaching in a barber school that includes administrative experience; and
- (d) Pays a fee *as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A* ~~not to exceed one hundred fifty dollars (\$150)~~.

(4) *The board shall issue a student permit to any person enrolled in a licensed barber school upon payment of a fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A.*

(5) The board shall issue a license to teach barbering to any person who:

- (a) Is of good moral character and temperate habit;
- (b) Possesses a high school diploma or a High School Equivalency Diploma;
- (c) Has been a *Kentucky*-licensed and practicing barber for at least eighteen (18) months;
- (d) Has satisfactorily passed the examination prescribed by the board by promulgation of administrative regulations; and
- (e) Has paid a fee *as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A* ~~not to exceed one hundred dollars (\$100)~~.

~~(6)~~~~(5)~~ The board shall issue a license to any barber who holds an independent contract owner's license who:

- (a) Is of good moral character and temperate habit;
- (b) Possesses a high school diploma or a High School Equivalency Diploma;
- (c) Is a licensed and practicing barber under this chapter; and
- (d) Has paid a fee *as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A* ~~not to exceed fifty dollars (\$50)~~.

- (7) *The board shall issue a demonstration charity event permit to any licensed barber who pays a fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A.*
- (8)(6) Applications for examination required in this section shall be accompanied by an examination fee as *established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A*~~follows~~:
- (a) ~~Barber not to exceed three hundred dollars (\$300); and~~
 - (b) ~~Teaching barbering not to exceed one hundred fifty dollars (\$150).~~
- (9)(7) (a) On and after July 1, 2016, a license issued pursuant to this section shall expire on the first day of July next following the date of its issuance. A license shall be renewed on June 1 through July 1 of each year.
- (b) Any license shall automatically be renewed by the board:
- 1. Upon receipt of the application for renewal or duplicate renewal application form and the required annual renewal license fee submitted either in person or via written or electronic means; and
 - 2. If the applicant for renewal is otherwise in compliance with the provisions of this chapter and the administrative regulations of the board.
- (10)(8) The annual renewal license fee for each type of license renewal shall be as *established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A*~~follows~~:
- (a) ~~Barber not to exceed fifty dollars (\$50);~~
 - (b) ~~Teacher of barbering not to exceed fifty dollars (\$50);~~
 - (c) ~~Barber shop not to exceed fifty dollars (\$50);~~
 - (d) ~~Barber school not to exceed one hundred fifty dollars (\$150); and~~
 - (e) ~~Independent contract owner not to exceed fifty dollars (\$50).~~
- (11)(9) (a) The fee per year for the renewal of an expired license, if the period of expiration does not exceed five (5) years, shall be as *established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A*~~follows~~:
- 1. ~~Barber not to exceed twenty five dollars (\$25) plus lapse fees;~~
 - 2. ~~Barber shop not to exceed twenty five dollars (\$25) plus lapse fees;~~
 - 3. ~~Barber school not to exceed twenty five dollars (\$25) plus lapse fees;~~
 - 4. ~~Teacher of barbering not to exceed twenty five dollars (\$25) plus lapse fees; and~~
 - 5. ~~Independent contract owner not to exceed twenty five dollars (\$25) plus lapse fees.~~
- (b) An applicant who fails to renew a license within five (5) years of its expiration shall comply with the requirements for relicensure established by the board through promulgation of administrative regulations in accordance with KRS Chapter 13A.

➔Section 6. KRS 317.460 is amended to read as follows:

- (1) The ~~barber~~ board shall hold hearings upon the request of any person directly affected by the board's decision to refuse a license; deny or revoke a license; or suspend or place a licensee on probation. Hearings shall be conducted in accordance with KRS Chapter 13B.
- (2) *For the purpose of enforcing the provisions of this chapter, officers, agents, and inspectors of the board may enter upon premises of all facilities issued a permit or license by the board, at all reasonable times and during periods when those premises are otherwise open to the public, and make inspections to determine compliance with this chapter and the administrative regulations promulgated by the board, and inspect books, papers, or records pertaining to licensed activity, a copy of which may be obtained by the board officer, agent, or inspector.*
- (3) Final orders of the ~~barber~~ board as a result of any hearing may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 7. KRS 317.470 is amended to read as follows:

- (1) The ~~{barber}~~board may employ such personnel as may be reasonably necessary to carry out the provisions of this chapter, whose compensation shall be established by the Personnel Cabinet. The board shall by appropriate order employ an administrator who shall be charged with responsibility of administering the provisions of this chapter, and the policies of the board relating to barbering. The administrator may receive ~~{a salary of \$12,000 per annum, or such}~~ compensation as may be established by classification of the position by the Personnel Cabinet.
- (2) The ~~{barber}~~board shall prescribe the duties of such personnel employed by it.
- (3) The ~~{barber}~~board shall publish *or electronically provide*~~{and distribute}~~ copies of its rules and regulations and *any proposed amendments*~~{revisions thereof}~~ to all persons licensed by it and to *any*~~{such}~~ other persons, places, or agencies as may be required by law or deemed by it reasonably necessary in the administration of the provisions of this chapter~~{, but such publications shall be clearly stamped, marked, or printed "informational copy"}.~~

➔Section 8. KRS 317.530 is amended to read as follows:

- (1) *There is hereby established in the State Treasury the Kentucky Board of Barbering trust and agency fund.*
- (2) *The fund shall be administered by the board.*
- (3)
 - (a) All fees ~~{and charges}~~ collected by the ~~{barber}~~board shall be *deposited into the fund and shall be used only*~~{paid into the State Treasury and credited to a separate revolving or trust and agency account established}~~ for the purpose of administering the provisions of this chapter as it relates to the ~~{barber}~~board.
 - (b) The cost and expenses of administering the provisions of this chapter including compensation to members of the board and its officers and employees shall be paid out of the State Treasury upon warrants of the secretary of the Finance and Administration Cabinet according to law. *However,* ~~{provided that}~~ the total expense of administering these provisions shall not exceed the fees and other charges collected by the board and available in the ~~{revolving or trust and agency}~~ fund~~{ account of the Kentucky Board of Barbering}~~.
- (4) *Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (5) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
- (6) *Moneys deposited into the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purpose*~~{(2) All fees and charges collected by the board shall be available for the administration of the provisions of this chapter as it relates to the board, and for no other purpose}~~.

➔Section 9. KRS 317.540 is amended to read as follows:

No license shall be renewed or issued by the ~~{barber}~~board to any barber school, unless the school provides:

- (1) The name of the proposed school;
- (2) A statement that the proposed school is authorized to operate educational programs beyond secondary education;
- (3) As a prerequisite of graduation, a prescribed course of instruction of not less than fifteen hundred (1,500) hours shall be given within a reasonable period with not more than eight (8) hours nor less than four (4) hours of instruction a day, exclusive of Sundays;
- (4) Courses of instruction in histology of the hair, skin, muscles, and nerves of the face and neck; elementary chemistry with emphasis on sterilization and antiseptics; disease of the skin, hair, and glands; massaging and manipulating of the muscles of the upper body; cutting, shaving, arranging, dressing, coloring, bleaching, and tinting the hair and such other courses as may be prescribed by regulation of the board; and
- (5) Such facilities, equipment, materials, and qualified teachers as may be required by rules and regulations of the board adopted pursuant to this chapter, but in no event shall any school have fewer than one (1) licensed teacher per twenty (20) students enrolled, or more than two (2) students per chair.

➔Section 10. KRS 317.580 is amended to read as follows:

No barber, independent contract owner, or student shall:

- (1) Knowingly continue to practice while he has an infectious or communicable disease;
- (2) Fail to provide the head rest of each chair with a relaundersed towel or a sheet of clean paper for each patron;
- (3) Fail to place around the patron's neck a strip of cotton, towel, or neck strip so that the haircloth does not come in contact with the nude skin of the patron's body;
- (4) Use on one (1) patron a towel that has been used upon another patron, unless the towel has been relaundersed; or
- (5) Use on any patron any razor, scissors, tweezers, comb, sachet, rubber disc or part of vibrator or other similar equipment or appliance that comes into contact with the head, face, hands, or neck of a patron, until the equipment or appliance has been immersed in boiling water for ten (10) minutes or in a sterilizing solution and placed in a wet or dry sterilizer until again used. Only such methods of sterilization as are bacteriologically effective and approved by the **Cabinet for Health and Family Services** ~~[Department for Public Health]~~ shall be used.
- (6) Fail to wash his or her hands in a sink both before and after contact with each patron. Methods to sterilize hands that are bacteriologically effective as approved by the United States Food and Drug Administration's Food Code, Sections 2-301.11 through 2-304.11, shall also be recognized and used. Barber shop licenses issued after July 12, 2006, shall require that a sink with hot and cold running water be located in the room where barbering is done.

➔Section 11. KRS 317.590 is amended to read as follows:

- (1) The board may refuse to issue or renew a license *or permit, or may suspend or revoke a license or permit, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or take any combination of these actions regarding proof of any* ~~[, revoke or suspend or place in probation a license, and impose fines in an amount not to exceed five hundred dollars (\$500) for each violation upon proper showing of the]~~ applicant's, *permittee's*, or licensee's:
 - (a) Gross malpractice or incompetence;
 - (b) Mental or physical health that would endanger public health or safety;
 - (c) Failure to comply with regulations or rules of the board;
 - (d) False or deceptive advertising;
 - (e) Practicing in an unlicensed shop or in a shop knowing that the shop is not complying with this chapter or regulations of the board promulgated pursuant to this chapter;
 - (f) Unprofessional conduct;
 - (g) Teaching in an unlicensed school or in a school knowing that the school is not complying with this chapter or administrative regulations of the board promulgated pursuant to this chapter;
 - (h) Practicing as an independent contract owner in any manner that violates any provision of this chapter or the administrative regulations promulgated under this chapter; or
 - (i) Violation of a provision of this chapter or an administrative regulation promulgated by the board pursuant to this chapter.
- (2) The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of each licensee.

➔Section 12. KRS 317A.010 is amended to read as follows:

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

- (1) "Beauty salon" means any establishment in which the practice of cosmetology is conducted for the general public or for consideration;
- (2) **"Board" means the Kentucky Board of Cosmetology;**
- (3) "Cosmetologist" means a person who engages in the practice of cosmetology for the public generally or for consideration, regardless of the name under which the practice is conducted;

~~[(3) "Cosmetologist board" or "board" means the Kentucky Board of Hairdressers and Cosmetologists;]~~

(4) "Cosmetology" means the practice upon the human neck and head of cutting hair, permanent waving, or hairdressing, and may also include but is not limited to:

- (a) Nail technology and finger waving;
- (b) Giving facial and scalp massage or treatments with oils, creams, lotions, or other preparations, either by hand or any contrivance;
- (c) Shaping, designing, shampooing, pressing, arranging, tinting, or lightening the hair, or applying hair products;
- (d) Applying to the neck or head, cosmetics, lotions, powders, oils, clays, or other products;
- (e) ~~{}Eyelash extensions;~~
- ~~(f) — {}Facial hair removal; and~~
- ~~(f) {}~~ Eyebrow shaping, design, ~~{threading}~~ or removal.

The practice of cosmetology does not include acts performed incident to treatment of an illness or a disease;

(5) "Cosmetology school" or "school of cosmetology" means any operation, place, or establishment in or through which persons are trained or taught the practice of cosmetology, *esthetic practices*, and nail technology;

(6) *"Esthetician" means a person who is licensed by the board to engage in esthetic practices in the Commonwealth of Kentucky;*

(7) (a) *"Esthetic practices" means one (1) or more of the following acts:*

- 1. *Giving facials, including consultation and skin analysis;*
- 2. *Giving skin care;*
- 3. *Removing facial hair;*
- 4. *Beautifying or cleaning the body with the use of cosmetic preparations, antiseptics, tonics, lotions, creams; or*
- 5. *Providing preoperative and postoperative esthetic skin care, either referred by or supervised by a medical professional;*

(b) *Except when these acts are performed incident to:*

- 1. *Treatment of an illness or a disease;*
- 2. *Work as a student in a board-approved school;*
- 3. *Work without compensation from the person receiving the service; or*
- 4. *Work performed by a licensed massage therapist.*

(8) *"Esthetic practices school" or "school of esthetic practices" means any operation, place, or establishment in or through which persons are trained in esthetic practices;*

(9) *"Esthetic salon" means a place where an esthetician performs esthetic practices;*

(10) *"Eyelash artistry" means the process of attaching semi-permanent lashes or eyelash extensions to natural eyelashes;*

(11) (a) *"Makeup artistry" means applying cosmetic products to the face and body.*

(b) *"Makeup artistry" includes:*

- 1. *Corrective and camouflage techniques; and*
- 2. *Airbrushing.*

(c) *"Makeup artistry" does not include:*

- 1. *Face painting at carnivals or fairs; or*
- 2. *Application of cosmetics when not done for consideration.*

- (12) "Nail salon" means any establishment in which the practice of nail technology only is conducted for the general public or for consideration;
- (13)~~(7)~~ "Nail technician" means a person who practices nail technology for the general public or for consideration;
- (14)~~(8)~~ "Nail technology" means the practice of cutting, trimming, polishing, coloring, cleansing, applying artificial nails, or massaging, cleaning, treating, or beautifying the hands and feet of any human, for which a license is required by this chapter;
- (15) **"Nail technology school" or "school of nail technology" means any operation, place, or establishment in or through which persons are trained in nail technology;**
- (16)~~(9)~~—(a) "Natural hair braiding" means a service of twisting, wrapping, weaving, extending, locking, or braiding hair by hand or with mechanical devices. Natural hair braiding is commonly known as "African-style hair braiding" but is not limited to any particular cultural, ethnic, racial, or religious forms of hair styles.
- (a)~~(b)~~ "Natural hair braiding" includes:
1. The use of natural or synthetic hair extensions, natural or synthetic hair and fibers, decorative beads, and other hair accessories;
 2. Minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking, or braiding hair;
 3. The use of topical agents such as conditioners, gels, moisturizers, oils, pomades, and shampoos; and
 4. The making of wigs from natural hair, natural fibers, synthetic fibers, and hair extensions.
- (b)~~(c)~~ "Natural hair braiding" does not include:
1. The application of dyes, reactive chemicals, or other preparation to alter the color of the hair or to straighten, curl, or alter the structure of the hair; or
 2. The use of chemical hair joining agents such as synthetic tape, keratin bonds, or fusion bonds.
- (c)~~(d)~~ For the purposes of this subsection, "mechanical devices" means clips, combs, curlers, curling irons, hairpins, rollers, scissors, needles, thread, and hair binders; and
- (17)~~(10)~~ "Threading" means the process of removing hair from below the eyebrow by use of a thread woven through the hair to be removed.

➔Section 13. KRS 317A.020 is amended to read as follows:

- (1) No person shall engage in the practice of cosmetology, ***esthetic practices***, or nail technology for other than cosmetic purposes nor shall any person engage in the practice of cosmetology, ***esthetic practices***, or nail technology for the treatment of physical or mental ailments. ~~The provisions of~~ This chapter ***does***~~do~~ not apply to:
 - (a) Persons authorized by the law of this state to practice medicine, podiatry, optometry, dentistry, chiropractic, nursing, or embalming who perform incidental practices of cosmetology, ***esthetic practices***, and nail technology in the normal course of the practice of their profession;
 - (b) Commissioned medical or surgical personnel of the United States ***Armed Forces***~~[Army, Navy, Air Force, or Marine Hospital Service]~~ who perform incidental practices of cosmetology, ***esthetic practices***, or nail technology in the course of their duties;
 - (c) Cosmetology, ***esthetic practices***, or nail technology services performed at an institution operated or under contract to the Department of Corrections or the Department of Juvenile Justice; and
 - (d) Persons engaged in natural hair braiding.
- (2) Except as provided in subsection (1) of this section, no person shall engage in the practice of cosmetology, ***esthetic practices***, or nail technology for the public, generally, or for consideration without the appropriate license required by this chapter.
- (3) No person unless duly and properly licensed pursuant to this chapter shall:
 - (a) Teach cosmetology, ***esthetic practices***, or nail technology;

- (b) Operate a beauty salon;
 - (c) ***Operate an esthetic salon***~~Engage in a cosmetology apprenticeship~~;
 - (d) ***Act as an esthetician***;
 - (e) Operate a nail salon;
 - (f)~~(e)~~ Act as a nail technician; or
 - (g)~~(f)~~ Conduct or operate a school for cosmetologists, ***estheticians***, or nail technicians.
- (4) No person shall aid or abet any person in violating ~~the provisions of~~ this section, nor shall any person engage or employ for consideration any person to perform any practice licensed by this chapter unless the person to perform the practice holds and displays the appropriate license.
- (5) No licensed cosmetology ***or esthetic practices*** instructors, licensed cosmetologists, ***licensed estheticians***, or licensed nail technicians shall hold clinics for teaching or demonstrating for personal profit, either monetary or otherwise, if the clinics are not sponsored by a recognized professional ~~hairstresser's,~~ cosmetologist's, ***esthetician's***, or nail technician's group.
- (6) Whenever a person engages in different practices separately licensed, certified, or permitted by ~~the provisions of~~ this chapter, that person shall procure a separate license, certificate, or permit for each of the practices in which the person engages.
- (7) ***The board may bring and maintain actions in its own name to enjoin any person in violation of any provision of this chapter. These actions shall be brought in the Circuit Court of the county where the violation is alleged to have occurred.***

➔Section 14. KRS 317A.030 is amended to read as follows:

- (1) There is created an independent agency of the state government to be known as the Kentucky Board of ***Cosmetology***~~Hairstressers and Cosmetologists~~, which shall have complete supervision over the administration of the provisions of this chapter relating to cosmetology, cosmetologists, schools of cosmetology, ***or esthetic practices or nail technology***, students~~enrolled in cosmetology, apprentice cosmetologists~~, ***estheticians***, nail technicians, ***instructors***~~teachers~~ of cosmetology, ***instructors of esthetic practices, or instructors of nail technology***, cosmetology salons, ***esthetic salons***, and nail salons.
- (2) The ~~cosmetologist~~ board shall be composed of five (5) members appointed by the Governor as follows:
- (a) Four (4) of the members shall have been cosmetologists five (5) years prior to their appointment and shall reside in Kentucky:
 - 1. Two (2) of whom shall be cosmetology salon owners;
 - 2. One (1) of whom shall be a cosmetology teacher in public education and shall not own any interest in a cosmetology salon; and
 - 3. One (1) of whom shall be an owner of or one who shall have a financial interest in a licensed cosmetology school and shall be a member of a nationally recognized association of ~~hairstressers and~~ cosmetologists;
 - (b) One (1) member shall be a citizen at large who is not associated with or financially interested in the practices or businesses regulated; and
 - (c) None of whom nor the administrator shall be financially interested in, or have any financial connection with, wholesale cosmetic supply or equipment businesses.

At all times in the filling of vacancies of membership on the board, this balance of representation shall be maintained.

- (3) Appointments shall be for a term of two (2) years, ending on February 1.
- (4) The Governor shall not remove any member of the board except for cause.
- (5) The board shall elect from its members a chair, a vice chair, and a secretary.
- (6) Three (3) members shall constitute a quorum for the transaction of any board business.

- (7) Each member of the board shall receive one hundred dollars (\$100) per day for each day of attendance at board meetings, and shall be reimbursed for necessary traveling expenses and necessary expenses incurred in the performance of duties pertaining to official business of the board.
- (8) The board shall hold meetings at the place in the state and at the times deemed necessary by the board to discharge its duties.

➔Section 15. KRS 317A.040 is amended to read as follows:

- (1) The ~~{cosmetologist}~~board may employ inspectors and *any*~~{such}~~ other personnel ~~{as may be}~~reasonably necessary to carry out the provisions of this chapter, whose compensations shall be established within budgetary limits by the Personnel Cabinet. ***The board may delegate staffing decisions to the administrator.***
- (2) The ~~{cosmetologist}~~board shall by appropriate order employ an administrator who shall be charged with the responsibility of administering the provisions of this chapter, and the policies and administrative regulations of the board relating to ~~{hairstyling and}~~cosmetology ***and esthetic practices.***
- (3) No person shall be employed as an administrator unless the person is a licensed cosmetologist.
- (4) The administrator may receive a salary ~~{of \$7,500 per annum, or such compensation}~~as may be established by classification of the position by the Personnel Cabinet.
- (5) The ~~{cosmetologist}~~board shall publish or electronically provide copies of its administrative regulations and ***any proposed amendments***~~{revisions thereof}~~ to all persons licensed by it and to *any*~~{such}~~ other persons, places, or agencies as may be required by law or deemed by it reasonably necessary to the administration of the provisions of this chapter~~{, but such publications shall be clearly marked, stamped, or printed "Informational Copy}."~~

➔Section 16. KRS 317A.050 is amended to read as follows:

- (1) ***All applicants for licensure under this chapter shall meet the following minimum requirements***~~{The cosmetologist board shall issue an apprentice cosmetologist license to any person who:~~
 - (a) ***Be***~~{Is}~~ of good moral character and temperate habit;
 - (b) ***Be***~~{Is}~~ at least ***eighteen (18)***~~{sixteen (16)}~~ years of age;
 - (c) ***Have***~~{Has}~~ a high school diploma, a High School Equivalency Diploma, or ~~{the}~~results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school; ***and***
 - (d) ***Have submitted the completed application along with the required license fee as set forth in administrative regulation***~~{Has official certification from the state board or agency that certifies cosmetology schools that the applicant has graduated from a licensed school of cosmetology requiring:~~
 1. ~~One thousand eight hundred (1,800) hours within ten (10) years of submitting an application for licensure for applicants enrolled prior to June 29, 2017, in a school of cosmetology licensed in Kentucky;~~
 2. ~~One thousand five hundred (1,500) hours within ten (10) years of submitting an application for licensure for applicants enrolling on or after June 29, 2017, in a school of cosmetology licensed in Kentucky; or~~
 3. ~~One thousand five hundred (1,500) hours within ten (10) years of submitting an application for licensure for applicants who graduated from a school of cosmetology licensed in a jurisdiction outside of the Commonwealth;~~
 - (e) ~~Has passed an examination prescribed by the board to determine fitness to practice as an apprentice cosmetologist; and~~
 - (f) ~~Has paid a fee of twenty five dollars (\$25).~~
- (2) ***Notwithstanding any provision to the contrary, the board may refuse to grant a license to any applicant who fails to comply with the provisions of this chapter or any administrative regulations promulgated by the board.***
- (3) The ~~{cosmetologist}~~board shall issue a cosmetologist license to any person who:
 - (a) ***Has official certification from the state board or agency that certifies cosmetology schools that the applicant has graduated from a licensed school of cosmetology requiring one thousand five hundred***

~~(1,500) hours within five (5) years of enrolling within the school~~~~[Has a high school diploma, a High School Equivalency Diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school]; and~~

- ~~(b) [Has practiced as a licensed cosmetology apprentice for at least six (6) months under the immediate supervision of a licensed cosmetologist;~~
- ~~(c) [Has satisfactorily passed an examination prescribed by the board to determine fitness to practice cosmetology]; and~~
- ~~(d) [Has paid a fee of twenty five dollars (\$25)].~~

~~(4)(3)~~ **The board shall issue an esthetician license to any person who:**

- ~~(a) [Has satisfactorily completed seven hundred fifty (750) hours of instruction in a licensed school approved by the board; and~~
- ~~(b) [Has received a satisfactory grade on an examination prescribed by the board to determine fitness to practice as an esthetician.~~

~~(5)~~ The ~~cosmetologist~~ board shall issue a license to act as a nail technician to any person who:

- ~~(a) [Is of good moral character and temperate habit;~~
- ~~(b) [Has official certification from the state board or agency that certifies cosmetology schools that the applicant has completed satisfactorily a nail technician course of study of **four hundred fifty (450)** ~~six hundred (600)~~ hours in a licensed school of cosmetology within **five (5)** ~~ten (10)~~ years of submitting an application for licensure; and~~
- ~~(c) [Has satisfactorily passed an examination prescribed by the board to determine fitness to practice as a nail technician];~~
- ~~(d) [Has a high school diploma, a High School Equivalency Diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school; and~~
- ~~(e) [Has paid a fee of twenty five dollars (\$25)].~~

~~(6)(4)~~ **The board shall issue a license to operate a salon as follows:**

- ~~(a) [The ~~cosmetologist~~ board shall issue a license to operate a beauty salon to any licensed cosmetologist upon receipt of the completed application, accompanied by a fee of thirty five dollars (\$35). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or the administrative regulations promulgated by the board. [If] An owner **who** is not a licensed cosmetologist, ~~he or she~~ shall have a licensed cosmetologist **as manager of** ~~manage~~ the beauty salon at all times. **If the** ~~A new license shall be purchased if the salon's~~ owner, manager, or location **of a beauty salon** changes, **the required form and fee shall be submitted to the board.**~~
- ~~(b) [The board shall issue a license to operate an esthetic salon to any licensed esthetician. An owner who is not a licensed esthetician shall have a licensed esthetician or cosmetologist as manager of the esthetic salon at all times. If the owner, manager, or location of an esthetic salon changes, the required form and fee shall be submitted to the board.~~
- ~~(c) [The ~~cosmetologist~~ board shall issue a license to operate a nail salon to any licensed nail technician upon receipt of the completed application and payment of a fee of thirty five dollars (\$35). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or administrative regulations promulgated by the board pursuant to this chapter]. An owner who is not a licensed nail technician shall have a licensed nail technician or cosmetologist as manager of the nail salon at all times. If the owner, manager, or location of a nail salon changes, **the required form and fee shall be submitted to the board** ~~a new license shall be purchased.~~~~
- ~~(e) [Any person who leases or rents space in a beauty salon or nail salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a) and (b) of this subsection].~~

~~(7)(5)~~ The ~~cosmetologist~~ board shall issue an apprentice license to teach cosmetology, **esthetic practices, or nail technology** to any person who:

- ~~(a) [Has held a current cosmetologist, esthetician, or nail technician license for at least one (1) year; and~~

- (b) ~~Has paid a fee of thirty five dollars (\$35);~~
- (b) ~~Has a high school diploma, a High School Equivalency Diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school and one (1) year experience as a licensed cosmetologist; and~~
- (e) Has submitted an application that has been signed by the owners of the school in which the applicant will study. The course of instruction shall be for a period of **seven hundred fifty (750)** ~~one thousand (1,000)~~ hours and not less than **four and one-half (4.5)** ~~six (6)~~ months at one (1) school providing this instruction. The school owner shall verify to the board the completion of **seven hundred fifty (750)** ~~one thousand (1,000)~~ hours. For out-of-state verification, an applicant shall provide official certification from the board or agency that certifies schools in that other state of licensure verifying the applicant has completed a course of instruction consisting of at least **seven hundred fifty (750)** ~~one thousand (1,000)~~ hours and not less than **four and one-half (4.5)** ~~six (6)~~ months at one (1) school providing the instruction.
- (8) ~~(6)~~ The ~~cosmetologist~~ board shall issue a license to teach cosmetology to any person who:
- (a) ~~Is of good moral character and temperate habit;~~
- (b) ~~Has a high school diploma, a High School Equivalency Diploma, or the results from the Test for Adult Basic Education indicating a score equivalent to the twelfth grade of high school;~~
- (e) Has held **a current cosmetologist license and** ~~an~~ apprentice instructor license for at least **four and one-half (4.5)** ~~six (6)~~ months; **and**
- (b) ~~(d)~~ Has satisfactorily passed the examination for the teaching of cosmetology as prescribed by the board; **and**
- (e) ~~Has paid a fee of fifty dollars (\$50).~~
- (9) ~~(7)~~ **The board shall issue a license to teach esthetic practices to any person who:**
- (a) **Has held a current esthetician license and apprentice instructor license for at least four and one-half (4.5) months;**
- (b) **Has completed fifty (50) hours in esthetics training within the last two (2) years; and**
- (c) **Has satisfactorily passed the examination for the teaching of esthetic practices as prescribed by the board.**
- (10) **The board shall issue a license to teach nail technology to any person who:**
- (a) **Has held a current nail technician license and apprentice instructor license for at least four and one-half (4.5) months;**
- (b) **Has completed fifty (50) hours in nail technology training within the last two (2) years; and**
- (c) **Has satisfactorily passed the examination for the teaching of nail technology as prescribed by the board.**
- (11) **If the requirements of Section 21 of this Act have been satisfied,** the ~~cosmetologist~~ board ~~shall~~ ~~may~~ issue a license to operate a school of cosmetology **or a school of esthetic practices or a school of nail technology** to any person who:
- (a) ~~Has complied with the administrative regulations promulgated by the board including but not limited to administrative regulations governing the necessary equipment, supplies, and facilities;~~
- (b) ~~Has furnished proof to the board that the school of cosmetology is needed, that he or she is otherwise qualified to operate a school of cosmetology, and that he or she intends to establish a bona fide school for the education and training of competent cosmetologists and that he or she will employ a sufficient number of licensed instructors of cosmetology to conduct the school;~~
- (e) Has as manager at all times a person who is:
1. Licensed as an instructor;
 2. Charged with the responsibility of ensuring that all applicable statutes and administrative regulations are complied with; and

3. Responsible for having a sufficient number of licensed instructors of cosmetology *or esthetic practices or nail technology* to conduct the school; ~~;~~
- (b) ~~[The designated manager shall be approved by the board before a license may be issued;~~
- (d) ~~Complies with the administrative regulations promulgated by the board including but not limited to those regarding courses, curriculum, and hours of instruction;~~
- (e) ~~Otherwise complies with this chapter;~~
- (f) ~~Has paid a fee of one thousand five hundred dollars (\$1,500);~~
- (g) ~~]Has been a resident of Kentucky for five (5) years, if the applicant is an individual. If the applicant is a firm or corporation, it shall be a Kentucky corporation or licensed or qualified to do business in Kentucky and shall have been in existence for a period of at least five (5) years;~~
- (c) ~~(h)~~ Any student enrolling in the school shall pay ~~the~~ ~~[a]~~ fee *set forth in administrative regulation* ~~[of fifteen dollars (\$15)]~~ to the board before enrollment in the school shall be allowed; and
- (d) ~~(i)~~ The transfer of any license to operate a school of cosmetology *or esthetic practices or nail technology* shall require the board's approval and shall become effective upon *submitting the required form and fee to* ~~[filing a new application with]~~ the board ~~[and paying a fee of one thousand five hundred dollars (\$1,500)].~~
- (12) ~~(8)~~ *Licenses established under this chapter shall be valid for a period of time to be established by the board through the promulgation of administrative regulations.*
- (13) Licenses and permits issued by the board may be renewed ~~[upon receipt,]~~ beginning July 1 through July 31 of each year.
 - (a) *Any license shall automatically be renewed by the board:*
 1. *Upon submission and receipt of the application for renewal and the required annual license fee; and*
 2. *If the application for renewal is otherwise in compliance with the provisions of this chapter and the administrative regulations of the board.*
 - (b) ~~[The application for renewal shall be completed in full and accompanied by the appropriate renewal fee required by subsection (9) of this section. Applications for renewal shall comply with the provisions of this chapter and the administrative regulations promulgated by the board.] Any license application [received or]postmarked after July 31 shall be considered expired, and the appropriate restoration fee as required by *administrative regulation of the board* ~~[subsection (11) of this section]~~ shall apply.~~
- ~~(9) The annual renewal license or permit fee for each type of license or permit renewal shall be as follows:~~
 - (a) ~~Apprentice cosmetologist — \$20;~~
 - (b) ~~Cosmetologist — \$20;~~
 - (c) ~~Nail technician — \$20;~~
 - (d) ~~Beauty salon — \$25;~~
 - (e) ~~Nail salon — \$25;~~
 - (f) ~~Apprentice instructor of cosmetology — \$25;~~
 - (g) ~~Instructor of cosmetology — \$35;~~
 - (h) ~~Cosmetology school — \$150;~~
 - (i) ~~Threading permit — \$20; and~~
 - (j) ~~Threading facility permit — \$25.~~
- (10) ~~Applications for examinations required by this section shall be accompanied by an examination fee as follows:~~
 - (a) ~~Apprentice cosmetologist — \$75;~~
 - (b) ~~Cosmetologist — \$75;~~
 - (c) ~~Nail technician — \$75;~~

- (d) ~~Instructor of cosmetology \$100;~~
 - (e) ~~Cosmetologist out of state \$120; and~~
 - (f) ~~Instructor out of state \$200.~~
- (11) ~~The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:~~
- (a) ~~Apprentice cosmetologist \$75;~~
 - (b) ~~Cosmetologist \$75;~~
 - (c) ~~Nail technician \$75;~~
 - (d) ~~Beauty salon \$75;~~
 - (e) ~~Nail salon \$75;~~
 - (f) ~~Cosmetology school \$750;~~
 - (g) ~~Instructor \$100; and~~
 - (h) ~~Apprentice instructor \$75.]~~
- (14)(12) The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:
- (a) Cosmetologists shall retake and pass the practical examination only;
 - (b) *Estheticians shall retake and pass both the practical and theory examination*~~[Apprentice cosmetologists shall complete four hundred fifty (450) additional hours training in a licensed school of cosmetology and pass all the prescribed examinations];~~
 - (c) Instructors of cosmetology *or esthetic practices* shall retake and pass both the practical and theory examination;
 - (d) Nail technicians shall retake and pass the practical and theory examination; and
 - (e) The appropriate restoration fee as set forth in *administrative regulation of the board*~~[subsection (11) of this section]~~ shall be required.
- (15)(13) Guest artists or demonstrators appearing and demonstrating before persons other than licensed ~~[hairstylists,] cosmetologists, estheticians, and nail technicians shall apply~~~~[pay a fee of fifty dollars (\$50)]~~ for a permit that shall be in effect for ten (10) days. Guest artists performing before a nonprofit, recognized professional ~~[hairstylists,] cosmetologists', estheticians', or cosmetology school[,]~~ or nail technicians' group shall apply for a permit, but shall not be required to pay the fee.
- (16)(14) The board shall issue a permit for threading and may promulgate administrative regulations that set out requirements for the practice of threading~~[upon payment of a fee of twenty dollars (\$20)]~~. Threading shall be conducted in a licensed beauty salon or *a facility with a permit*~~[permitted]~~ to engage in threading, and the board may promulgate administrative regulations for facilities and the required sanitation standards. *The permit shall be valid for a period of one (1) year.*
- (17) *The board shall issue a permit for eyelash artistry and may promulgate administrative regulations that set out the requirements for the practice of eyelash artistry. Eyelash artistry shall be conducted in a licensed beauty salon or a facility with a permit to engage in eyelash artistry, and the board may promulgate administrative regulations for facilities and the required sanitation standards. The permit shall be valid for a period of one (1) year.*
- (18) *The board shall issue a permit for makeup artistry and may promulgate administrative regulations that set out requirements for the practice of makeup artistry and required sanitation standards. The permit shall be valid for a period of one (1) year.*
- ~~[(15) The fee for certification shall be twenty dollars (\$20).~~
- ~~[(16) The fee for a duplicate license shall be twenty five dollars (\$25).]~~
- ➔Section 17. KRS 317A.060 is amended to read as follows:

- (1) The ~~cosmetologist~~ board shall promulgate administrative regulations ~~governing the operation of any schools and salons of cosmetology and nail technology~~ including but not limited to administrative regulations *that:* ~~to~~
- (a) Protect the health and safety of the public; ~~to~~
 - (b) Protect the public against *incompetent or unethical practice*, misrepresentation, deceit, or fraud in the practice or teaching of beauty culture; ~~to~~
 - (c) Set standards for the operation of the schools and salons; ~~and to~~
 - (d) Protect the students under ~~the provisions of~~ this chapter; ~~to~~
 - (e) *Set standards for* ~~(2) — The administrative regulations promulgated by the board shall also address:~~
 - (a) ~~the location and housing of beauty salons or cosmetology schools in the state. To this end, the board may make reasonable divisions and subdivisions of the state.~~ This subsection does not apply to the instructional programs in cosmetology in the state area vocational and technical schools;
 - (f) ~~(b)~~ *Set standards for* the quantity and quality of equipment, supplies, materials, records, and furnishings required in beauty salons, *esthetic salons*, nail salons, ~~and for~~ cosmetology, *esthetic practices, and nail technology* schools;
 - (g) ~~(c)~~ *The training and supervision of cosmetology apprentices;*
 - (d) ~~(d)~~ *Establish* the qualifications of *instructors* ~~teachers~~ of cosmetology, *instructors of esthetic practices, instructors of nail technology*, and apprentice teachers ~~of cosmetology~~;
 - (h) ~~(e)~~ *Establish requirements for* the hours and courses of instruction at cosmetology schools *and esthetic practices schools and nail technology schools*;
 - (i) ~~(f)~~ *Establish requirements for* the examinations of applicants for licenses;
 - (j) ~~(g)~~ *Establish the requirements for* the proper education and training of students; ~~and~~
 - (k) ~~(h)~~ *Address* the course and conduct of school owners, instructors, apprentice instructors, licensed cosmetologists, *estheticians*, nail technicians, beauty salons, *esthetic salons*, nail salons, ~~and~~ cosmetology schools, *schools of esthetic practices, and schools of nail technology*; and
 - (l) *Establish a code of ethics for persons licensed by the board.*
- (2) ~~(3)~~ Administrative regulations pertaining to health and sanitation shall be approved by the Cabinet for Health and Family Services before becoming effective.

➔Section 18. KRS 317A.062 is amended to read as follows:

~~(1) Notwithstanding the provisions of this chapter to the contrary, The~~ ~~cosmetology~~ board shall promulgate administrative regulations establishing a reasonable schedule of fees and charges for examinations, for the issuance *and restoration* of licenses *and permits*, and for the renewal of licenses issued under this chapter. ~~All such fees, charges, and other moneys collected by the board, shall be paid into the State Treasury and credited to a trust and agency fund established under KRS 317A.080. The fees shall be established pursuant to subsections (2) to (7) of this section.~~

- (2) ~~The following licensing fees may be assessed by the cosmetology board and shall not exceed the following amounts:~~

(a) — Apprentice cosmetologist	\$25.00
(b) — Cosmetologist	\$25.00
(c) — Nail technician	\$25.00
(d) — Beauty salon operator	\$35.00
(e) — Nail salon operator	\$35.00
(f) — Apprentice cosmetology instructor	\$35.00
(g) — Cosmetology instructor	\$50.00
(h) — School of cosmetology	\$1,500.00

- (i) ~~Student..... \$15.00~~
- (j) ~~School of cosmetology, transfer of ownership.....\$1,500.00~~
- (k) ~~School of cosmetology, manager change.....\$250.00~~
- (3) ~~The board shall assess the following licensing renewal fees that shall not exceed the following:~~
 - (a) ~~Apprentice cosmetologist\$20.00~~
 - (b) ~~Cosmetologist.....\$20.00~~
 - (c) ~~Nail technician license\$20.00~~
 - (d) ~~Beauty salon license\$25.00~~
 - (e) ~~Nail salon license\$25.00~~
 - (f) ~~Apprentice instructor of cosmetology.....\$25.00~~
 - (g) ~~Instructor of cosmetology\$35.00~~
 - (h) ~~Cosmetology school.....\$150.00~~
- (4) ~~The cosmetology board shall assess fees for the taking of an examination that shall not exceed the following:~~
 - (a) ~~Apprentice cosmetologist\$75.00~~
 - (b) ~~Cosmetologist.....\$75.00~~
 - (c) ~~Nail technician.....\$75.00~~
 - (d) ~~Instructor of cosmetology\$100.00~~
 - (e) ~~Cosmetologist out of state.....\$120.00~~
 - (f) ~~Instructor out of state\$200.00~~
- (5) ~~The fee for retaking an examination or any portion of an examination that an applicant has not successfully completed shall not exceed the following:~~
 - (a) ~~Apprentice cosmetologist\$32.00~~
 - (b) ~~Cosmetologist.....\$32.00~~
 - (c) ~~Nail technician.....\$32.00~~
 - (d) ~~Instructor of cosmetology\$50.00~~
 - (e) ~~Cosmetologist out of state.....\$60.00~~
 - (f) ~~Instructor out of state\$100.00~~
- (6) ~~The fees for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration shall not exceed the following:~~
 - (a) ~~Apprentice cosmetologist\$75.00~~
 - (b) ~~Cosmetologist.....\$75.00~~
 - (c) ~~Nail technician.....\$75.00~~
 - (d) ~~Beauty salon \$75.00~~
 - (e) ~~Nail salon.. \$75.00~~
 - (f) ~~Cosmetology school.....\$750.00~~
 - (g) ~~Instructor... \$100.00~~
 - (h) ~~Apprentice instructor\$75.00~~
- (7) ~~The following miscellaneous fees may be assessed and shall not exceed the following:~~
 - (a) ~~Guest artists \$50.00~~
 - (b) ~~Certification fee\$20.00~~

- (c) ~~Duplicate license~~.....\$25.00
- (d) ~~Where an endorsement application is required by the~~
~~board~~.....\$100.00}

➔Section 19. KRS 317A.070 is amended to read as follows:

- (1) The~~cosmetologist~~ board shall hold hearings upon the request of any *licensee or applicant*~~person~~ directly affected by the board's decision to refuse to issue or renew a license *or permit*, or to deny, suspend, probate, fine, or revoke a license *or permit*. A licensee or applicant shall request a hearing within thirty (30) days of the board's notice that it seeks to refuse to issue or renew a license *or permit*, or to deny, suspend, probate, fine, or revoke a license *or permit*. The hearing shall be conducted in accordance with KRS Chapter 13B.
- (2) Rulings of the board as a result of any hearing may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 20. KRS 317A.080 is amended to read as follows:

- (1) *There is hereby established in the State Treasury the Kentucky Board of Cosmetology trust and agency fund.*
- (2) *The fund shall be administered by the board.*
- (3) (a) All fees~~and charges~~ collected by the~~cosmetologist~~ board shall be *deposited into the fund and shall be used only*~~paid into the State Treasury and credited to a separate revolving or trust and agency fund account established~~ for the purpose of administering the provisions of this chapter as it relates to the~~cosmetologist~~ board.
- (b) The cost and expenses of administering the provisions of this chapter including compensation to members of the board and its officers and employees shall be paid out of the State Treasury upon warrants of the secretary of the Finance and Administration Cabinet according to law. *However,*~~provided that~~ the total expense of administering these provisions shall not exceed the fees and other charges collected by the board and available in the ~~revolving or trust and agency fund~~~~account of that board~~;
- (4)~~(2)~~ *Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (5) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
- (6) *Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes*~~All fees and charges collected by the board shall be available for the administration of the provisions of this chapter as it relates to the board, and for no other purpose.~~

➔Section 21. KRS 317A.090 is amended to read as follows:

No license shall be *issued or* renewed~~or issued~~ by the~~cosmetologist~~ board to any cosmetology school *or school of esthetic practices or school of nail technology* unless such school provides:

- (1) The name of the proposed school;
- (2) A statement that the proposed school is authorized to operate educational programs beyond secondary education;
- (3) As a prerequisite of graduation, a prescribed course of instruction of not less than one thousand five hundred (1,500) hours ~~for~~~~in the case of~~ a cosmetology school *or seven hundred fifty (750) hours for a school of esthetic practices, or four hundred fifty (450) hours for a school of nail technology*, to be given within an uninterrupted period with not more than eight (8) hours nor less than four (4) hours of instruction a day, exclusive of Sundays; except that in the state area vocational schools, the *required*~~one thousand five hundred (1,500)~~ hours of instruction may be offered according to the schedule for other vocational classes in the school;
- (4) Courses of instruction in histology of the hair, skin, nails, muscles, and nerves of the face and neck; elementary chemistry with emphasis on sterilization~~and antiseptics~~, diseases of the skin, hair, and glands, and massaging and manipulating of the muscles of the upper body; cutting, shaving, arranging, dressing,

~~chemical treatment of~~ ~~coloring, bleaching, and tinting~~ the hair and such other courses as may be prescribed by administrative regulation of the board;

- (5) ~~Such~~ Facilities, equipment, materials, and qualified instructors and apprentice instructors as may be required by administrative regulations of the board adopted pursuant to this chapter, but ~~in~~ no ~~event shall any~~ ~~cosmetology school~~ **or school of esthetic practices or school of nail technology shall** have fewer than one (1) licensed instructor per twenty (20) students present for instruction;
- (6) ~~The fee for the initial license of a cosmetology school shall be one thousand dollars (\$1,000);~~
- (7) ~~No~~ No cosmetology school **or school of esthetic practices or school of nail technology**, after being licensed for the first time, shall serve the public until **one hundred fifty (150)** ~~three hundred (300)~~ hours of instruction has been taught; and
- (7) ~~(8)~~ In compliance with KRS 317A.070, the board may revoke or suspend any license issued by it if, in the judgment of the board, the school is not following the requirements as set out in this chapter or ~~the~~ ~~such~~ school does not comply with the administrative regulations promulgated by the board in order to regulate the conduct of the school and in order to supervise the proper education of the students.

➔Section 22. KRS 317A.100 is amended to read as follows:

- (1) The ~~cosmetologist~~ board may **promulgate** ~~prescribe~~ reasonable administrative regulations pertaining to the issuance of a license, upon payment of the prescribed license fee, to any person holding a comparable license issued by another state where the laws of that state, in the opinion of the ~~cosmetologist~~ board, provide comparable professional qualification, health, and safety standards;
- (2) A person who provides certification of licensure from a state board or appropriate agency, whose requirements are not comparable to those of Kentucky, who has held a license in good standing for more than two (2) years, shall be issued a Kentucky license after completion of an application, payment of a fee, and passage of the theory and practical examinations.
- (3) A person who provides certification of licensure from a state board or appropriate agency, whose requirements are not comparable to those of Kentucky, who has held a license in good standing for less than two (2) years, shall be able to cure the deficiency of comparability through continuing education ~~or apprenticeship~~ in Kentucky **as determined by the board**. The board may require completion of an application, payment of a fee, and passage of the theory and practical examinations.

➔Section 23. KRS 317A.120 is amended to read as follows:

- (1) ~~No examination or part of any examination required by this chapter shall be given unless a quorum of the board is present to supervise such examination.~~
- (2) ~~Examinations given by the board shall cover all phases of qualifications for the license applied for including skill and technique of applicant as well as scientific and other knowledge. **National exams may be used if approved by the board.**~~
- (2) **Examinations shall be given by trained proctors.**
- (3) Examinations shall be given at regularly prescribed intervals.
- (4) Examinations shall be given at **locations that have been approved by** ~~the principal office of~~ the board.

➔Section 24. KRS 317A.130 is amended to read as follows:

- (1) No instructor, student, cosmetologist, ~~apprentice,~~ or nail technician shall:
 - (a) ~~(1)~~ Fail to provide the head rest of each chair with a relaundersed towel or a sheet of clean paper for each person;
 - (b) ~~(2)~~ Fail to place around the patron's neck a strip of cotton, towel, or neck strip so that the haircloth does not come in contact with the patron's skin;
 - (c) ~~(3)~~ Use on one (1) patron a towel that has been used upon another patron, unless the towel has been relaundersed;
 - (d) ~~(4)~~ Use on any patron any razor, scissors, tweezers, comb, bowl, recirculating pipes, rubber disc, or part of vibrator or other similar equipment or appliance that comes into contact with the head, face, hands, feet, or neck of a patron, until the equipment or appliance has been **sterilized in accordance with** ~~immersed in boiling water for ten (10) minutes or in a sterilizing solution and placed in a wet or~~

~~dry sterilizer until again used. Only those~~ methods of sterilization that are bacteriologically effective and approved by the **Cabinet for Health and Family Services**~~[Department for Public Health]~~ shall be used; or

~~(e)(5)~~ Use on any patron a liquid nail enhancement product containing monomeric methyl methacrylate, also known as dental acrylic monomer, for the purpose of creating artificial nail enhancements in the practice of cosmetology and nail technology.

(2) **No esthetician practicing under this chapter shall perform any of the following unless practicing under the immediate supervision of a licensed physician:**

- (a) **Botox or collagen injections;**
- (b) **Laser treatments;**
- (c) **Electrolysis;**
- (d) **Tattoo;**
- (e) **Permanent makeup;**
- (f) **Microblading; or**
- (g) **Piercing.**

➔Section 25. KRS 317A.140 is amended to read as follows:

(1) The board may **refuse to issue or renew a license or permit, or may suspend or revoke a license or permit, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or take any combination of these actions regarding proof of any**~~[fine, refuse to issue or renew a license, or revoke or suspend a license upon proper showing of an]~~ applicant's, permittee's, or licensee's:

- (a) Conviction of a felony, if in accordance with KRS Chapter 335B;
- (b) Gross malpractice or incompetence;
- (c) Mental or physical health that would endanger public health or safety;
- (d) False or deceptive practice or misrepresentation including advertising;
- (e) Practicing in an unlicensed ~~salon[shop]~~ or in a ~~salon[shop]~~ knowing that the ~~salon[shop]~~ is not **in compliance**~~[complying]~~ with this chapter or **the** administrative regulations of the board promulgated pursuant to this chapter;
- (f) Immoral **conduct**, ~~for~~ unprofessional conduct, **or a violation of the code of ethics;**
- (g) Teaching in an unlicensed school or in a school knowing that the school is not **in compliance**~~[complying]~~ with this chapter or **the** administrative regulations of the board promulgated pursuant to this chapter;
- (h) Failure to comply with the administrative regulations of the board.

(2) Payments in lieu of suspension collected by the board shall be deposited in the State Treasury and credited to the general fund.

(3) The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of the licensee.

➔Section 26. KRS 317A.145 is amended to read as follows:

(1) The board shall receive complaints concerning any person licensed under this chapter relating to the licensee's business or professional practices. The board ~~may~~**shall** investigate all complaints concerning any person licensed under the provisions of this chapter. The board may on its own volition initiate such an investigation and shall promulgate administrative regulations necessary for the administration of the provisions of this section.

(2) If upon investigation there appears to be a violation of the provisions of this chapter, the board shall take such action as it deems necessary under the provisions of KRS 317A.140.

- (3) *For the purpose of enforcing the provisions of this chapter, officers, agents, and inspectors of the board may enter upon premises of all facilities issued a permit or license by the board, at all reasonable times and during periods when those premises are otherwise open to the public, and make inspections to determine compliance with this chapter and the administrative regulations promulgated by the board, and inspect books, papers, or records pertaining to the licensed activity, a copy of which may be obtained by the board officer, agent, or inspector.*

➔Section 27. KRS 317A.150 is amended to read as follows:

Nothing in this chapter shall supersede KRS 156.010 nor shall any fee be required for any student enrolling in a program operated by ~~either the State Board for Occupational Education or~~ the **Kentucky**~~State~~ Department of Education.

➔Section 28. KRS 317A.155 is amended to read as follows:

- (1) As used in this section, "funeral establishment" means funeral establishment as defined in KRS 316.010.
- (2) Every person practicing as a cosmetologist, *esthetician*~~apprentice~~, or nail technician, with the exception of a nail technician or cosmetologist exclusively practicing manicuring in a licensed barber shop, shall practice in an establishment licensed by the board.
- (3) Notwithstanding~~the provisions in~~ subsection (2) of this section, persons holding an active license from the board as a cosmetologist, *esthetician*, or nail technician and who practice in salons licensed by the board shall be permitted to render services for pay, free, or otherwise, to:
 - (a) A person suffering from a terminal illness~~whose death is anticipated,~~ and who is receiving the services of a hospice program either at home or at a hospice inpatient unit; or
 - (b) *A person*~~Persons~~ who *is*~~are~~ deceased and in the care of *a* funeral *establishment*~~establishments~~.
- (4) Cosmetologists, *estheticians*, and nail technicians who render services authorized in subsection (3) of this section shall have the permission of the owner or administrator of the establishment where the services are rendered.

➔Section 29. KRS 317A.990 is amended to read as follows:

- (1) Any person who violates any provision of this chapter shall be fined not less than *fifty dollars (\$50)*~~(\$50)~~ nor more than *one thousand five hundred dollars (\$1,500)*~~(\$500 or imprisoned for not less than ten (10) days nor more than six (6) months, or both such fine and imprisonment)~~.
- (2) Any person who violates any administrative regulation lawfully *promulgated*~~adopted~~ by the board under the authority contained in this chapter shall be fined not less than *twenty-five dollars (\$25)*~~(\$25)~~ nor more than *seven hundred fifty dollars (\$750)*~~(\$200 or imprisoned for not less than ten (10) days nor more than three (3) months, or both such fine and imprisonment)~~.

➔Section 30. KRS 164.945 is amended to read as follows:

As used in KRS 164.945 to 164.947, unless the context otherwise requires:

- (1) (a) "College" means any educational facility or institution maintained or conducted by any person, association, partnership, corporation, or trust and operating as an institute, junior college, college, university, or entity of whatever kind which awards a degree, diploma, or other statement of recognition purporting to indicate a level of collegiate attainment beyond secondary school graduation. This definition includes private colleges located in Kentucky, private colleges located outside of Kentucky but which operate in Kentucky, and public colleges located outside of Kentucky but which operate in Kentucky.
- (b) The term "college" does not include state-supported colleges and universities authorized by KRS 164.100, 164.290, 164.580, and 164.810, nor does it include colleges licensed or approved for establishment and operation under the statutory authority given to the Kentucky Board of Barbering under KRS 317.430, the Kentucky Board of *Cosmetology*~~Hairdressers and Cosmetologists~~ under KRS 317A.030, the Kentucky Commission on Proprietary Education under KRS 165A.340, or the State Board of Nursing under KRS 314.121.
- (2) "Degree" means any academic or honorary title of designation, mark, appellation, series of letters, numbers or words, such as, but not limited to, associate, bachelors, masters, doctorate, or fellow, which signifies, purports,

or is generally taken to signify satisfactory completion of the requirements of an academic, educational, or professional program of study beyond the secondary school level.

- (3) "Diploma" means a certificate, transcript, report, document, or title of designation, mark, appellation, series of letters, numbers, or words which signifies, purports, or is generally taken to signify attendance, progress, or achievement in an academic program.

➔Section 31. KRS 165A.310 is amended to read as follows:

As used in this chapter:

- (1) "Proprietary school" or "school" means a privately owned for-profit educational institution, establishment, agency, organization, or person offering or administering a plan, course, or program of instruction in business, trade, technical, industrial, or related areas for which a fee or tuition is charged whether conducted in person, by mail, or by any other method;
- (2) "Commission" means the Kentucky Commission on Proprietary Education;
- (3) "Cabinet" means the Finance and Administration Cabinet;
- (4) "Agent" means any person employed by an institution to act as agent, solicitor, broker, or independent contractor to procure students for such school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school;
- (5) "Degree" means associate degree;
- (6) "Person" means an individual, corporation, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;
- (7) "School year" is beginning the first day of July and ending the thirtieth day of June next following, except when approval shall be suspended or canceled pursuant to the provisions herein;
- (8) "CDL" means a commercial driver's license as defined in KRS 281A.010;
- (9) "CDL driver training" means a course of study that complies with the provisions of KRS 332.095 governing the instruction of persons in the operation of commercial motor vehicles;
- (10) "CDL driver training school" means any person, firm, partnership, association, educational institution, establishment, agency, organization, or corporation that offers CDL driver training to persons desiring to obtain a Kentucky CDL in order to operate a commercial motor vehicle and for which a fee or tuition is charged;
- (11) "Classification" means as established in KRS 281A.170;
- (12) "Commercial motor vehicle" means as defined in KRS 281A.010;
- (13) "Endorsement" means as established in KRS 281A.170;
- (14) "Restrictions" means as established in KRS 281A.170;
- (15) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement;
- (16) "Formal complaint" means a written statement filed on a form specified by the commission in which the complainant alleges that a school has violated a Kentucky statute or administrative regulation and has negatively impacted the complainant, and resolution is requested by the commission; and
- (17) The definition of a "proprietary school" shall not include the following:
 - (a) A school or educational institution supported entirely or partly by taxation from either a local or state source;
 - (b) A parochial, denominational, or eleemosynary school or institution;
 - (c) A school or training program which offers instruction solely in the field of an avocation, recreation, or entertainment, as determined by the state commission;
 - (d) A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees for the benefit of the employer and without charge to the employee; or

- (e) A school or educational institution licensed or approved by or a course or courses of study or instruction sponsored by the Kentucky Board of Barbering established by KRS 317.430, the Kentucky Board of ~~Cosmetology~~~~[Hairdressers and Cosmetologists]~~ established by KRS 317A.030, the Kentucky Board of Nursing established by KRS 314.121, the State Board of Embalmers and Funeral Directors of the State of Kentucky established by KRS 316.170, or the Kentucky Council on Postsecondary Education established by KRS 164.011.

➔Section 32. KRS 309.352 is amended to read as follows:

KRS 309.350 to 309.364 shall not preclude:

- (1) Persons duly licensed, registered, or certified as massage therapists in another state or territory, the District of Columbia, or a foreign country teaching a course related to massage therapy or consulting with a person licensed under KRS 309.350 to 309.364;
- (2) Students enrolled in a program recognized by the board and completing a clinical requirement for graduation while under the supervision of a board-licensed massage therapist or other licensed health-care professional as defined by the board in administrative regulation;
- (3) A person administering a massage to members of the person's immediate family;
- (4) Persons who restrict manipulation of the soft tissues of the human body to the hands, feet, or ears, and do not hold themselves out to be massage therapists;
- (5) Persons who use procedures within the scope of practice of their profession, which has established standards and ethics, provided that their services use touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged, but who are not designated or implied to administer massage or to be massage therapists. These practices include, but are not limited to, the Feldenkrais Method and the Trager Approach;
- (6) Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is limited to what is essential for palpation and affecting of the human energy system, provided that their services are not designated or implied to be massage or massage therapy. These practices include but are not limited to polarity therapy;
- (7) Persons duly licensed, certified, or registered in another state or territory, the District of Columbia, or a foreign country when incidentally in this state to provide service as a part of an emergency response team working in conjunction with disaster relief officials or as part of a charity event, athletic event, or artistic performance;
- (8) Students participating in massage therapy classes or continuing education while in the classroom or practicing on a classmate and not holding themselves out as massage therapists or accepting compensation for the practice; or
- (9) Practitioners of the following occupations and professions regulated by state law while engaging in the practices for which they are duly licensed and while not holding themselves out to be massage therapists:
 - (a) Physicians, osteopaths, podiatrists, and athletic trainers regulated under KRS Chapter 311;
 - (b) Chiropractors regulated under KRS Chapter 312;
 - (c) Registered nurses and practical nurses regulated under KRS Chapter 314;
 - (d) Barbers, cosmetologists, and estheticians regulated under KRS Chapters 317 ~~and~~ 317A, ~~and 317B~~ respectively;
 - (e) Occupational therapists regulated under KRS Chapter 319A; and
 - (f) Physical therapists regulated under KRS Chapter 327.

➔Section 33. KRS 324B.030 is amended to read as follows:

- (1) The Department of Professional Licensing in the Public Protection Cabinet shall provide administrative services, technical assistance, and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the State Board of Accountancy, the Kentucky Board of Architects, the Kentucky Board of Barbering, the Kentucky Board of ~~Cosmetology~~~~[Hairdressers and Cosmetologists]~~, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of

Registration for Professional Engineers and Land Surveyors, the Kentucky Board of Nursing, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the State Board of Examiners of Psychologists, the Kentucky Real Estate Commission, the Kentucky Board of Veterinary Examiners, the Board of Auctioneers, the Kentucky Board of Landscape Architects, the State Board of Medical Licensure, the Board of Speech-Language Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators, the Kentucky Licensing Board for Specialists in Hearing Instruments, the Kentucky Board of Social Work, and any other boards and commissions that are created to license, certify, register, or otherwise regulate any occupational or professional category.

- (2) The department may also provide administrative services to a board or commission that is created to license, certify, register, or otherwise regulate any occupational or professional category if these administrative services are deemed to be preferable or required after the review process conducted under KRS 324B.040.
- (3) To the extent that the department provides administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The department shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The department may employ persons previously employed by boards or commissions.
- (4) The department may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the department for administrative purposes. The department shall cause these complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The department shall keep a record of all complaints received by it and forwarded to a board or commission.
- (5) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license renewal fees.

➔Section 34. The following KRS sections are repealed:

317A.160 Cosmetologist and nail technician lessees as independent contractors -- Limitation of salon operator's liability.

317B.010 Definitions for chapter.

317B.015 Prohibited activities -- Applicability of KRS Chapter 317B.

317B.020 Kentucky Board of Hairdressers and Cosmetologists to administer KRS Chapter 317B -- Powers and duties.

317B.025 Qualifications and fees for esthetician, esthetic salon, and esthetics instructor licenses -- Dual licenses.

317B.030 License renewal -- Expiration and restoration -- Administrative regulations.

317B.035 Examinations required by chapter.

317B.040 Reciprocal licensing.

317B.045 Denial, suspension, probation, or revocation of license -- Grounds -- Administrative fine -- Hearing -- Mediation.

317B.050 Investigation of complaints concerning licensees under this chapter.

317B.055 Hearings -- Appeals.

317B.060 Penalties.

➔Section 35. Whereas it is difficult to obtain a quorum of the board to hold licensing exams, and such a requirement is a hindrance to obtaining a license, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 30, 2018.

(HB 310)

AN ACT relating to the reporting of information by governmental entities.

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

➔Section 1. KRS 83A.085 is amended to read as follows:

- (1) Each city, except a city of the first class, shall establish the office of city clerk.
- (2) The office of city clerk may be combined with any other nonelected city office by inclusion of the title and duties of the office in the ordinance establishing the office of city clerk.
- (3) The duties and responsibilities of the clerk shall include but not be limited to the following:
 - (a) Maintenance and safekeeping of the permanent records of the city;
 - (b) Performance of the duties required of the "official custodian" or "custodian" in accordance with KRS 61.870 to 61.882;
 - (c) Possession of the seal of the city if used;
 - (d) No later than January 31 of each year, mail *or electronically submit* to the Department for Local Government a list containing current city information including but not limited to the following:
 1. The correct name, *telephone number, and electronic mail address* of the mayor, legislative body members, and the *correct name, telephone number, and electronic mail address for the city's* ~~following~~ appointed officials *or employees* who are serving *in the following roles or substantially similar roles* as of January 1 of each year:
 - a. City clerk;
 - b. City treasurer *or chief financial officer*;
 - c. City manager *or administrator*;
 - d. City attorney;
 - e. *Human resources* ~~Finance~~ director;
 - f. Police chief;
 - g. Fire chief; ~~and~~
 - h. Public works director;
 - i. *Risk manager*;
 - j. *Information technology manager*;
 - k. *Public relations or communications officer; and*
 - l. *Planning and zoning administrator*.
 2. The correct name of the city, mailing address for city hall, and telephone number of city hall; and
 3. The name and telephone number of either an elected or appointed official to serve as a contact person that may be reached during normal business hours of 8 a.m. to 4:30 p.m.;
 - (e) Performance of all other duties and responsibilities required of the city clerk by statute or ordinance; and
 - (f) *Once the information required to be reported under paragraph (d) of this subsection is compiled by the Department for Local Government, the department shall* ~~immediately~~ forward one (1) *electronic* copy of the *compiled* information ~~received from each city clerk~~ to the Legislative Research Commission.

➔Section 2. KRS 65.905 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, each local government shall annually, after the close of the fiscal year, complete a uniform financial information report. The report shall be submitted to the Department for Local Government by May 1 immediately following the close of the fiscal year. The Department for Local Government shall immediately send *the compiled data from* ~~one (1) copy of~~ the

uniform financial information report to the Legislative Research Commission *in accordance with Section 3 of this Act* to be used for the purposes of KRS 6.955 to 6.975.

- (2) The final quarterly report filed by a county within fifteen (15) days after the end of the last quarter of the fiscal year, in accordance with KRS 68.360(2), shall be deemed the uniform financial information report for that county for purposes of compliance with KRS 65.900 to 65.925.
- (3)
 - (a)
 1. Each city may have the uniform financial information report completed by its selected auditor as part of the terms and conditions of the written agreement between the city and the auditor in accordance with KRS 91A.040.
 2. Each county may have the uniform financial information report completed by its auditor selected in accordance with KRS 43.070 or 64.810.
 3. For fiscal periods ending prior to July 1, 2014, each special district may have the uniform financial information report completed by its auditor selected in accordance with KRS 65.065. For fiscal periods beginning on and after July 1, 2014, the provisions of this section shall no longer apply to special districts. Instead, the provisions of KRS 65A.010 to 65A.090 shall apply. Notwithstanding the dates established by this subparagraph, the provisions of this section and KRS 65A.010 to 65A.090 shall be administered such that the registration required by KRS 65A.090(1) occurs as required by that subsection, and there is no gap in reporting by entities subject to this section and KRS 65A.010 to 65A.090 as the transition occurs.
 - (b) If a city does not use the auditor to complete the uniform financial information report, it shall by order designate an elected or nonelected official to be responsible for annually completing the report and submitting it to the Department for Local Government.
 - (c) If a local government has any agency, board, or commission that receives any funding from the local government, but conducts its operations on an autonomous or semi-autonomous basis, the local government shall note on the uniform financial information report the name of the agency, board, or commission; the mailing address of the agency, board, or commission; and the dollar amount annually appropriated by the local government to the agency, board, or commission.
- (4) The Department for Local Government shall by administrative regulation prescribe the format of the uniform financial information report, and shall attempt to coordinate and combine efforts with the United States Bureau of the Census in the development of the format of the uniform financial information report so that a single report will meet the needs of both agencies and fulfill the requirements of KRS 65.900 to 65.925. Regardless of any agreement between the Department for Local Government and the United States Bureau of the Census, the Department for Local Government shall maintain responsibility for assuring that a uniform financial information report is distributed to each local government as soon as practicable after the close of each fiscal year, but in no event later than one hundred twenty (120) days prior to the required submission date of May 1.
- (5) The Department for Local Government shall use the uniform financial information report to replace as many financial information forms as possible that local governments are currently required to complete and submit to that office for use by either the state or federal governments, by consolidating the required information into the uniform report.

➔Section 3. KRS 65.925 is amended to read as follows:

The Department for Local Government shall consult with the Legislative Research Commission to determine a format for electronic data which is acceptable to both. At the earliest date possible, but no later than September 30, 1992, and each year thereafter, the Department for Local Government shall provide a copy of all reliable data from the uniform financial information reports of all reporting governments to the Legislative Research Commission in the agreed upon electronic format.~~[- The Department for Local Government shall, upon receipt, file a copy of each completed uniform financial information report with the county clerk of the county in which the reporting unit of local government is located.]~~

Signed by Governor March 30, 2018.

(HB 343)

AN ACT relating to certificates of free sale.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "certificate of free sale" means a document attesting that a product is legally sold or distributed in the open, without restriction, in the country of origin.*
- (2) *The Department of Agriculture is authorized to issue certificates of free sale for products that are manufactured or processed in Kentucky and not intended for human consumption.*
- (3) *The department shall charge a reasonable fee for issuing certificates of free sale.*
- (4) *The department may adopt rules and promulgate administrative regulations necessary to carry out this section.*

Signed by Governor March 30, 2018.

CHAPTER 49

(HB 329)

AN ACT relating to assistance animals.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
 - (a) *"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. This shall include a service animal specifically trained or equipped to perform tasks for a person with a disability, or an emotional support animal that provides support to alleviate one or more identified symptoms or effects of a person's disability; and*
 - (b) *"Therapeutic relationship" means the provision of medical care, program care, or personal care services, in good faith, to the person with a disability by:*
 1. *A mental health service provider;*
 2. *An individual or entity with a valid, unrestricted state license, certification, or registration to serve persons with disabilities; or*
 3. *A caregiver, reliable third party, or a government entity with actual knowledge of the person's disability.*
- (2) *A person with a disability may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling. Unless the person's disability or disability-related need is readily apparent, the person receiving the request may ask the person making the request to provide reliable documentation of the disability-related need for an assistance animal, including documentation from any person with whom the person making the request has or has had a therapeutic relationship.*
- (3) *Unless the person making the request has a disability or disability-related need for an assistance animal that is readily apparent, a person receiving a request for a reasonable accommodation to maintain an assistance animal in a dwelling shall evaluate the request and any reliable supporting documentation to verify the disability-related need for the reasonable accommodation regarding an assistance animal. The person receiving the request may independently verify the authenticity of any supporting documentation.*
- (4) *A person with a disability who is granted a reasonable accommodation to maintain an assistance animal in a dwelling shall comply with the rental agreement or any rules and regulations of the property owner*

applicable to all residents that do not interfere with an equal opportunity to use and enjoy the dwelling and any common areas of the premises. The person shall not be required to pay a pet fee or deposit or any additional rent to maintain an assistance animal in a dwelling, but shall be responsible for any physical damages to the dwelling if residents who maintain pets are responsible for physical damages to the dwelling caused by pets. Nothing in this section shall be construed to affect any cause of action against any resident for other damages under the laws of the Commonwealth.

- (5) *Notwithstanding any other law to the contrary, a landlord shall not be liable for injuries by a person's assistance animal permitted on the landlord's property as a reasonable accommodation to assist the person with a disability pursuant to the Fair Housing Act, as amended, 42 U.S.C. secs. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. secs. 12101 et seq., and Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. sec. 701, or any other federal, state, or local law.*
- (6) *A person commits the offense of misrepresentation of an assistance animal if the person knowingly:*
 - (a) *Misrepresents as a part of a request for a reasonable accommodation to maintain an assistance animal in a dwelling that the person has a disability or disability-related need for the use of an assistance animal;*
 - (b) *Makes materially false statements for the purpose of obtaining documentation for the use of an assistance animal in housing;*
 - (c) *Creates or executes a document that misrepresents an animal as an assistance animal for use in housing;*
 - (d) *Provides a document to another falsely stating that an animal is an assistance animal for use in housing; or*
 - (e) *Fits an animal, which is not an assistance animal, with a harness, collar, vest, or sign that the pet is an assistance animal for use in housing.*
- (7) *Misrepresentation of an assistance animal is a violation with a fine of up to one thousand dollars (\$1,000).*

Became law without Governor's signature March 31, 2018.

CHAPTER 50

(HB 71)

AN ACT relating to distribution of sexually explicit images without the consent of the person depicted.

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

➔Section 1. KRS 531.010 is amended to read as follows:

As used in this chapter:

- (1) "Distribute" means to transfer possession of, whether with or without consideration.
- (2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, live image transmitted over the Internet or other electronic network, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials.
- (3) "Obscene" means:
 - (a) To the average person, applying contemporary community standards, the predominant appeal of the matter, taken as a whole, is to prurient interest in sexual conduct; and
 - (b) The matter depicts or describes the sexual conduct in a patently offensive way; and
 - (c) The matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (4) *"Private erotic matter" means an obscene visual image, including a photograph, film, video recording, or digital reproduction, of an identifiable person, depicting sexual conduct or the exposure of uncovered*

human genitals, buttocks, or nipple of the female breast. A person may be identifiable from the image itself or from information distributed in connection with the visual image.

- (5) "Sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse; or physical contact with the genitals, flagellation, or excretion for the purpose of sexual stimulation or gratification.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of distribution of sexually explicit images without consent when:*
- (a) *He or she intentionally distributes to any third party private erotic matter without the written consent of the person depicted, and does so with the intent to profit, or to harm, harass, intimidate, threaten, or coerce the person depicted; and*
 - (b) *The disclosure would cause a reasonable person to suffer harm.*
- (2) *This section shall not apply to:*
- (a) *Images involving voluntary nudity or sexual conduct in public, commercial settings, or in a place where a person does not have a reasonable expectation of privacy;*
 - (b) *Disclosures made in the public interest, including the reporting of unlawful conduct, or lawful and common practices of law enforcement, criminal reporting, corrections, legal proceedings, or medical treatment;*
 - (c) *Disclosures of materials that constitute a matter of public concern; or*
 - (d) *Internet service providers or telecommunications services, or interactive computer services, as defined in 47 U.S.C. sec. 230(f)(2), for content solely provided by another person.*
- (3) *A person who maintains an Internet Web site, online service, online application, or mobile application that distributes private erotic matter shall remove any such image if requested by a person depicted, and shall not solicit or accept a fee or other consideration to remove the visual image.*
- (4) *Distribution of sexually explicit images without consent is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense, unless the person distributes the private erotic matter for profit or gain, in which case it is a Class D felony for the first offense and a Class C felony for each subsequent offense.*
- (5) *In this section, "consent" means the consent to transmission of images to a specific recipient or recipients. Consent to the creation of the visual image does not, by itself, constitute consent to the distribution of the visual image.*
- (6) *Notwithstanding KRS 17.500 to 17.580, a conviction under this section shall not result in the offender being deemed a registrant or being required to register as a sex offender.*

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

- (1) *A civil action may be maintained under this section against any person who, in violation of subsection (3) of Section 2 of this Act, does not remove a sexually explicit image upon the request of the person depicted in the image.*
- (2) *A civil action may be maintained under this section whether or not the individual who is alleged to have violated subsection (3) of Section 2 of this Act has been charged or convicted under Section 2 of this Act. Liability under this section shall include damages of one thousand dollars (\$1,000) for each sexually explicit image for each day the image remains on the Web site after receipt of the request.*
- (3) *An action under this section shall be brought within two (2) years of the last act of conduct in violation of subsection (3) of Section 2 of this Act.*

Signed by Governor April 2, 2018.

(HCR 152)

A CONCURRENT RESOLUTION honoring pregnancy help centers for their life-saving work throughout the United States and Commonwealth of Kentucky.

WHEREAS, the considerable life-affirming impact of pregnancy help centers on the women, men, children, and communities they serve is growing; and

WHEREAS, pregnancy help centers serve women in Kentucky and across the United States with integrity and compassion; and

WHEREAS, more than 2,500 pregnancy help centers across the United States provide comprehensive care to women and men facing unplanned pregnancies, including resources to meet their physical, psychological, emotional, and spiritual needs; and

WHEREAS, pregnancy help centers offer women free, confidential, and compassionate services, including pregnancy tests, peer counseling, 24-hour telephone hotlines, childbirth and parenting classes, referrals to community health care, and other support services; and

WHEREAS, many medical pregnancy help centers offer ultrasounds and other medical services; and

WHEREAS, many pregnancy help centers provide information on adoption and adoption referrals to pregnant women; and

WHEREAS, pregnancy help centers encourage women with compassionate and confidential peer counseling in a nonjudgmental manner, regardless of their pregnancy outcomes; and

WHEREAS, pregnancy help centers provide important support and resources for women who choose childbirth over abortion; and

WHEREAS, pregnancy help centers provide women with prenatal information and services; and

WHEREAS, many pregnancy help centers provide grief assistance for women and men who regret the loss of their children from their past choices; and

WHEREAS, many pregnancy help centers work to prevent unplanned pregnancies by teaching effective abstinence education; and

WHEREAS, pregnancy help centers operate primarily through reliance on the voluntary donations and time of individuals who are committed to caring for the needs of women and promoting and protecting life; and

WHEREAS, pregnancy help centers in Kentucky save our communities well over a million dollars annually by providing valuable services to vulnerable women, men, and families free of charge, according to Care Net; and

WHEREAS, pregnancy help centers provide full disclosure, in both their advertisements and direct contact with women, of the types of services they provide;

NOW, THEREFORE,

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

➔Section 1. The General Assembly strongly supports pregnancy help centers in their unique and positive contributions to the individual lives of women, men, and babies, both born and unborn.

➔Section 2. The General Assembly commends the compassionate work of tens of thousands of volunteers and paid staff at pregnancy help centers in Kentucky and across the United States.

➔Section 3. The General Assembly disapproves of any action by the Congress of the United States, federal agencies, or state governments that would compromise the mission or religious integrity of pregnancy help centers.

➔Section 4. The General Assembly disapproves of the actions of any national, state, or local group attempting to prevent pregnancy help centers from effectively serving women and men facing unplanned pregnancies.

➔Section 5. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the office of Representative Robert Benvenuti III and to the offices of the Kentucky Congressional delegation.

Signed by Governor April 2, 2018.

CHAPTER 52**(HJR 33)**

A JOINT RESOLUTION recommending the creation of WINGS.

WHEREAS, Working Interdisciplinary Networks of Guardianship Stakeholders, otherwise known as WINGS, is an innovative movement to improve adult guardianship; and

WHEREAS, WINGS is a court-community partnership that drives changes affecting the ways courts and guardians practice; and

WHEREAS, WINGS is broad-based and multi-disciplinary, including judges and court staff, the aging and disability networks, the public and private bar, mental health agencies, advocacy groups, medical and mental health professionals, service providers, and family members and individuals affected by guardianship; and

WHEREAS, WINGS is a consensus-driven, problem-solving mechanism that offers a forum for considering how adult guardianship is working in the state, where pressure points exist, and possible solutions; and

WHEREAS, the creation of WINGS by all states was a core recommendation of the 2011 Third National Guardian Summit, sponsored by the ten National Guardianship Network organizations; and

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators have urged implementation of WINGS; and

WHEREAS, over 20 states have already created WINGS or similar guardianship stakeholder partnerships;

NOW, THEREFORE,

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

➔Section 1. (1) The General Assembly recommends that the Cabinet for Health and Family Services and the Administrative Office of the Courts create a pilot Working Interdisciplinary Networks of Guardianship Stakeholders, or WINGS, to examine how Kentucky's adult guardianship is working and to identify needed changes.

(2) If created, the General Assembly recommends that the pilot WINGS exist for at least two years and include one or more of the following partners:

- (a) Judges and court staff;
- (b) Aging and disability networks;
- (c) Public and private bar;
- (d) Mental health agencies;
- (e) Advocacy groups;
- (f) Medical and mental health professionals;
- (g) Service providers; or
- (h) Family members and individuals affected by guardianship.

(3) The Cabinet for Health and Family Services, in conjunction with the Administrative Office of the Courts, shall report annually any needed adult guardianship changes identified by the pilot WINGS to the Interim Joint Committee on Judiciary by January 1 of each year the pilot is in operation.

Signed by Governor April 2, 2018.

CHAPTER 53**(HB 30)**

AN ACT relating to suicide prevention training.

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

➔Section 1. KRS 156.095 is amended to read as follows:

- (1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.
- (2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include assisting with needs assessments, analyzing school data, planning and evaluation assistance, organizing districtwide programs requested by school councils or groups of teachers, or other coordination activities.
 - (a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.
 - (b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.
- (3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the state assessment program developed under KRS 158.6453; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs shall be made available to teachers based on their needs which shall include but not be limited to the following areas:
 - (a) Strategies to reduce the achievement gaps among various groups of students and to provide continuous progress;
 - (b) Curriculum content and methods of instruction for each content area, including differentiated instruction;
 - (c) School-based decision making;
 - (d) Assessment literacy;
 - (e) Integration of performance-based student assessment into daily classroom instruction;
 - (f) Nongraded primary programs;
 - (g) Research-based instructional practices;
 - (h) Instructional uses of technology;
 - (i) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;
 - (j) Instruction in reading, including phonics, phonemic awareness, comprehension, fluency, and vocabulary;
 - (k) Educational leadership; and

- (l) Strategies to incorporate character education throughout the curriculum.
- (4) The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.
- (5) The department shall assist districts and school councils with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.
 - (a) Professional development strategies may include, but are not limited to, participation in subject matter academies, teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.
 - (b) In planning the use of the four (4) days for professional development under KRS 158.070, school councils and districts shall give priority to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. The district may use up to one (1) day to provide district-wide training and training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.
 - (c) State funds allocated for professional development shall be used to support professional development initiatives that are consistent with local school improvement and professional development plans and teachers' individual growth plans. The funds may be used throughout the year for all staff, including classified and certified staff and parents on school councils or committees. A portion of the funds allocated to each school council under KRS 160.345 may be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.
- (6)
 - (a) By August 1, 2010, the Kentucky Cabinet for Health and Family Services shall post on its Web page suicide prevention awareness information, to include recognizing the warning signs of a suicide crisis. The Web page shall include information related to suicide prevention training opportunities offered by the cabinet or an agency recognized by the cabinet as a training provider.
 - (b) By September ~~15, 2018~~~~1, 2010~~, and September ~~15~~~~1~~ of each year thereafter, every public middle and high school administrator shall disseminate suicide prevention awareness information to all middle and high school students. The information may be obtained from the Cabinet for Health and Family Services or from a commercially developed suicide prevention training program.
 - (c)
 - 1. ***Beginning with the 2018-2019 school year, and every other year thereafter, a minimum of one (1) hour of high-quality suicide prevention training shall be required for all high school and middle school principals, guidance counselors, and teachers. The training shall be provided either in-person, by live streaming, or via a video recording and may be included in the four (4) days of professional development under KRS 158.070.***
 - 2. ***When a staff member subject to the training under subparagraph 1. of this paragraph is initially hired during a school year in which the training is not required, the local district shall provide suicide prevention materials to the staff member for review.***
 - (d) ***The requirements of paragraphs (b) and (c) of this subsection shall apply to public charter schools as a health and safety requirement under KRS 160.1592(1).***
- (7)
 - (a) The Kentucky Department of Education shall develop and maintain a list of approved comprehensive evidence-informed trainings on child abuse and neglect prevention, recognition, and reporting that encompass child physical, sexual, and emotional abuse and neglect.
 - (b) The trainings shall be Web-based or in-person and cover, at a minimum, the following topics:
 - 1. Recognizing child physical, sexual, and emotional abuse and neglect;
 - 2. Reporting suspected child abuse and neglect in Kentucky as required by KRS 620.030 and the appropriate documentation;
 - 3. Responding to the child; and
 - 4. Understanding the response of child protective services.

- (c) The trainings shall include a questionnaire or other basic assessment tool upon completion to document basic knowledge of training components.
 - (d) Each local school board shall adopt one (1) or more trainings from the list approved by the Department of Education to be implemented by schools.
 - (e) All current school administrators, certified personnel, office staff, instructional assistants, and coaches and extracurricular sponsors who are employed by the school district shall complete the implemented training or trainings by January 31, 2017, and then every two (2) years after.
 - (f) All school administrators, certified personnel, office staff, instructional assistants, and coaches and extracurricular sponsors who are employed by the school district hired after January 31, 2017, shall complete the implemented training or trainings within ninety (90) days of being hired and then every two (2) years after.
 - (g) Every public school shall prominently display the statewide child abuse hotline number administered by the Cabinet for Health and Family Services, and the National Human Trafficking Reporting Hotline number administered by the United States Department for Health and Human Services.
- (8) The Department of Education shall establish an electronic consumer bulletin board that posts information regarding professional development providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or program.
- (9) The Department of Education shall provide training to address the characteristics and instructional needs of students at risk of school failure and most likely to drop out of school. The training shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with these students. The training for instructional personnel shall be designed to provide and enhance skills of personnel to:
- (a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;
 - (b) Plan specific instructional strategies to teach at-risk students;
 - (c) Improve the academic achievement of students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;
 - (d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and
 - (e) Significantly reduce the dropout rate of all students.
- (10) The department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.
- (11) The department shall annually provide to the oversight council established in KRS 15A.063, the information received from local schools pursuant to KRS 158.449.
- ➔Section 2. KRS 158.070 is amended to read as follows:
- (1) As used in this section:
- (a) "Election" has the same meaning as in KRS 121.015;
 - (b) "Minimum school term" or "school term" means not less than one hundred eighty-five (185) days composed of the student attendance days, teacher professional days, and holidays;

- (c) "School calendar" means the document adopted by a local board of education that establishes the minimum school term, student instructional year or variable student instructional year, and days that school will not be in session;
 - (d) "School district calendar committee" means a committee consisting of:
 - 1. One (1) school district principal;
 - 2. One (1) school district office administrator other than the superintendent;
 - 3. One (1) member of the local board of education;
 - 4. Two (2) parents of students attending a school in the district;
 - 5. One (1) school district elementary school teacher;
 - 6. One (1) school district middle or high school teacher;
 - 7. Two (2) school district classified employees; and
 - 8. Two (2) community members from the local chamber of commerce, business community, or tourism commission;
 - (e) "Student attendance day" means any day that students are scheduled to be at school to receive instruction, and encompasses the designated start and dismissal time;
 - (f) "Student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time for students delivered on not less than one hundred seventy (170) student attendance days;
 - (g) "Teacher professional day" means any day teachers are required to report to work as determined by a local board of education, with or without the presence of students; and
 - (h) "Variable student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time delivered on the number of student attendance days adopted by a local board of education which shall be considered proportionally equivalent to one hundred seventy (170) student attendance days and calendar days for the purposes of a student instructional year, employment contracts that are based on the school term, service credit under KRS 161.500, and funding under KRS 157.350.
- (2)
- (a) Beginning with the 2018-2019 school year, and each year thereafter, the local board of education, upon recommendation of the local school district superintendent, shall annually appoint a school district calendar committee to review, develop, and recommend school calendar options.
 - (b) The school district calendar committee, after seeking feedback from school district employees, parents, and community members, shall recommend school calendar options to the local school district superintendent for presentation to the local board of education. The committee's recommendations shall comply with state laws and regulations and consider the economic impact of the school calendar on the community and the state.
 - (c) Prior to adopting a school calendar, the local board of education shall hear for discussion the school district calendar committee's recommendations and the recommendation of the superintendent at a meeting of the local board of education.
 - (d) During a subsequent meeting of the local board of education, the local board shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, student attendance days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.
 - (e) For local board of education meetings described in paragraphs (c) and (d) of this subsection, if the meeting is a regular meeting, notice shall be given to media outlets that have requests on file to be notified of special meetings stating the date of the regular meeting and that one (1) of the items to be considered in the regular meeting will be the school calendar. The notice shall be sent at least twenty-four (24) hours before the regular meeting. This requirement shall not be deemed to make any requirements or limitations relating to special meetings applicable to the regular meeting.
 - (f) Beginning with the 2018-2019 school year, and each year thereafter, a local school board of education that adopts a school calendar with the first student attendance day in the school term starting no earlier

than the Monday closest to August 26 may use a variable student instructional year. Districts may set the length of individual student attendance days in a variable student instructional schedule, but no student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.

- (3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of students pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.
- (b) ~~In addition to the four (4) days required under paragraph (a) of this subsection, a minimum of two (2) hours of self study review of suicide prevention materials shall be required for all high school and middle school principals, guidance counselors, and teachers each school year.~~
- ~~(c)~~ A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.
 1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
 2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.
- ~~(c)(d)~~ The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.
- ~~(d)(e)~~ Each local board may use two (2) days for planning activities without the presence of students.
- ~~(e)(f)~~ Each local board may close schools for the number of days deemed necessary for:
 1. National or state emergency or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
 2. Local emergency which would endanger the health or safety of children; and
 3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.
- (4) (a) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of student attendance days as a result of a local emergency, as described in subsection (3)~~(e)(f)~~2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of waivers from the requirements of a student instructional year in subsection (1)(f) of this section for districts that wish to adopt innovative instructional calendars, or for circumstances that would create extreme hardship.
- (b) If a local board of education amends its school calendar after its adoption due to an emergency, it may lengthen or shorten any remaining student attendance days by thirty (30) minutes or more, as it deems necessary, provided the amended calendar complies with the requirements of a student instructional year in subsection (1)(f) of this section or a variable student instructional year in subsection (1)(h) of

this section. No student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.

- (5)
 - (a)
 1. In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings.
 2. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates.
 3. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit employees who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence.
 4. The commissioner of education shall designate one (1) additional day during the school year when schools may be closed to permit professional school employees to participate in regional or district professional meetings.
 5. These three (3) days so designated for attendance at professional meetings may be counted as a part of the minimum school term.
 - (b)
 1. If any school in a district is used as a polling place, the school district shall be closed on the day of the election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.
 2. A district may be open on the day of an election if no school in the district is used as a polling place.
 - (c) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:
 1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(c)~~(4)~~ of this section; or
 2. Not include the day in the minimum school term specified in subsection (1) of this section.
- (6)
 - (a) The Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, shall be encouraged to schedule athletic competitions outside the regularly scheduled student attendance day.
 - (b) Beginning with the 2009-2010 school year, any member of a school-sponsored interscholastic athletic team who competes in a regional tournament or state tournament sanctioned by the Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, and occurring on a regularly scheduled student attendance day may be counted present at school on the date or dates of the competition, as determined by local board policy, for a maximum of two (2) days per student per year. The student shall be expected to complete any assignments missed on the date or dates of the competition.
 - (c) The school attendance record of any student for whom paragraph (b) of this subsection applies shall indicate that the student was in attendance on the date or dates of competition.
- (7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.
- (8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the student attendance day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school

operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the student attendance day.

- (9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the student instructional year in subsection (1)(f) of this section, or a variable student instructional year in subsection (1)(h) of this section, except that the commissioner of education may grant up to the equivalent of ten (10) student attendance days for school districts that have an alternative instruction plan approved by the commissioner of education for the use of alternative methods of instruction, including virtual learning, on days when the school district is closed for health or safety reasons, on nontraditional days, or on nontraditional time. The district's plan shall demonstrate how teaching and learning in the district will not be negatively impacted. Average daily attendance for purposes of Support Education Excellence in Kentucky program funding during the student attendance days granted shall be calculated in compliance with administrative regulations promulgated by the Kentucky Board of Education.
- (10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (2) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the beginning of the student attendance day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the student attendance day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.
- (11) Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses student attendance days due to emergencies, including weather-related emergencies:
 - (a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:
 1. State and local requirements under this section are met regarding the equivalent of the number and length of student attendance days, teacher professional days, professional development days, holidays, and days for planning activities without the presence of students; and
 2. The provisions of the district's school calendar to make up student attendance days missed due to any emergency, as approved by the Kentucky Department of Education when required, including but not limited to a provision for additional instructional time per day, are met.
 - (b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:
 1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make up full days missed due to an emergency;
 2. The employee's contract requires a minimum six (6) hour work day; and
 3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.
 - (c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened student attendance days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened student attendance days.

Signed by Governor April 2, 2018.

AN ACT relating to the Kentucky Workers' Compensation Funding Commission.

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

➔Section 1. KRS 342.0011 is amended to read as follows:

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

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

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

any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group;

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

- 1. *Schedule rating modifications, debits, or credits;***
 - 2. *Deductible credits; or***
 - 3. *Modifications to the cost of coverage from inception through and including any audit that are based on negotiated retrospective rating arrangements, including but not limited to large risk alternative rating options;***
- (26) "Insurance policy" for an insurance company or self-insured group means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year;
- (27) "Self-insurance year" for a self-insured group means the annual period of certification of the group created pursuant to KRS 342.350(4) and 304.50-010;
- (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:
- (a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period;
 - (b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Office of Employment and Training, Education and Workforce Development Cabinet. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period;
 - (c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Office of Employment and Training data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122;
 - (d) For November 1, 1987, through December 31, 1988, premium for each employer carrying its own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying its own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews its application for certification to carry its own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification;
 - (e) If an employer having fewer than five (5) years of doing business in this state applies to carry its own risk and is so certified, its premium for the purposes of KRS 342.122 shall be based on the lesser

number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then its premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1);

- (f) If an employer is certified to carry its own risk after having previously insured the risk, its premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry its own risk and has paid all amounts due for assessments upon premiums paid while insured, the employer shall be assessed only upon the premium calculated under this subsection;
 - (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection; and
 - (h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents (\$0.30) per one hundred dollars (\$100) of the employer's most recent annualized payroll for employees covered by this chapter;
- (29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget;
 - (30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System;
 - (31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits;
 - (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth;
 - (33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods;
 - (34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy;
 - (35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment";
 - (36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b); and
 - (37) "Guides to the Evaluation of Permanent Impairment" means, except as provided in KRS 342.262:
 - (a) The fifth edition published by the American Medical Association; and
 - (b) For psychological impairments, Chapter 12 of the second edition published by the American Medical Association.

➔Section 2. KRS 342.122 is amended to read as follows:

- (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose of funding and prefunding the liabilities of the special fund, financing the administration and operation of the Kentucky Workers' Compensation Funding Commission, and financing the expenditures for all programs in the Labor Cabinet, except the Division of Apprenticeship and Division of Wages and Hours in the Department of Workplace Standards, as reflected in the enacted budget of the Commonwealth and enacted by the General Assembly, the funding commission shall impose a special fund assessment rate of nine percent (9%) upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and

Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying his or her own risk.

- (b) The funding commission shall, for calendar year 1998 and thereafter, establish for the special fund an assessment rate to be assessed against all premium received during that calendar year which shall produce enough revenue to amortize on a level basis the unfunded liability of the special fund as of June 30 preceding January 1 of each year, for the period remaining until December 31, 2029. The interest rate to be used in this calculation shall reflect the funding commission's investment experience to date and the current investment policies of the commission. This assessment shall be imposed upon the amount of workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, and against the premium, as defined in KRS 342.0011, of every employer carrying its own risk. On or before October 1 of each year, the commission shall notify each insurance carrier writing workers' compensation insurance in the Commonwealth, every group of self-insured employers, and each employer carrying its own risk, of the rates which shall become effective on January 1 of each year, unless modified by the General Assembly.
 - (c) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission.
 - (d) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on workers' compensation premiums.
- (2) (a) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely through actual physical receipt or by postmark of the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.
- (b) *Beginning on January 1, 2020, all assessments shall be electronically remitted to the funding commission quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received. Receipt shall be considered timely when filed and remitted using the appropriate electronic pay system as prescribed by the funding commission. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.*
- (3) The assessments imposed by this section may be collected by the insurance carrier from the insured. However, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. If the insurance carrier collects the assessment from an insured, the assessment shall be collected at the same time and in the same proportion as the premium is collected. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages imposed by this chapter. The assessment for an insurance policy or other evidence of coverage providing a deductible may be collected in accordance with this chapter on a premium amount that equates to the premium that would have applied without the deductible. The percentages imposed by this chapter for an insurance policy issued by an insurance company shall be those percentages in effect on the annual effective date of the policy, regardless of the date that the premium is actually received by the insurance company.
- (4) A self-insured group may elect to report its premiums and to have its assessments computed in the same manner as insurance companies. This election may not be rescinded for at least ten (10) years, nor may this election be made a second time for at least another ten (10) years, except that the board of directors of the funding commission may, at its discretion, waive the ten (10) year ban on a case-by-case basis after formal petition has been made to the funding commission by a self-insured group.
- (5) The funding commission, as part of the collection and auditing of the special fund assessments required by this section, shall annually require each insurance carrier and each self-insured group to provide a list of employers which it has insured or which are members and the amount collected from each employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or self-insured

group may require its insureds or members to furnish the SIC code for each of their employees. However, the failure of any employer to furnish said codes shall not relieve the insurance carrier or self-insured group from the obligation to furnish same to the funding commission. The Office of Employment and Training, Education and Workforce Development Cabinet, is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

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

➔Section 3. KRS 342.1221 is amended to read as follows:

Assessments levied *and expenses owed* pursuant to KRS 342.122 *and Sections 6 and 7 of this Act* and unpaid on the date on which they are due and payable shall bear interest at the rate specified in KRS 131.183 plus a penalty of one and one-half percent (1.5%) per month or portion thereof without proration from the date on which the assessment *or expenses are* ~~was~~ due and payable. The funding commission shall have the authority to waive part or all of the penalty, but not the interest, where it is shown to the satisfaction of the commission that failure to timely pay assessments is due to reasonable cause. *This authority shall extend to the coal workers' pneumoconiosis fund until it ceases to exist.*

➔Section 4. KRS 342.1223 is amended to read as follows:

- (1) The Kentucky Workers' Compensation Funding Commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to KRS 342.122.
- (2) The commission shall:
 - (a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS 342.122 and its other funds separate and apart from all "state funds" or "public funds," as defined in KRS Chapter 446;
 - (b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power over the funds collected pursuant to KRS 342.122, and may invest association funds through one (1) or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the Department of Financial Institutions, in investments described in KRS Chapter 386, except that the funding commission may, at its discretion, invest in ~~nondividend-paying~~ equity securities;
 - (c) Report to the General Assembly at each even-numbered-year regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by the mechanism, including detailed information on the investment of funds and yields thereon;
 - (d) Recommend to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, changes deemed necessary in the level of the assessments imposed in this chapter;

- (e) In conjunction with the Labor Cabinet, submit to the General Assembly, not later than October 31 of the year prior to each even-numbered-year regular legislative session, a proposed budget for the biennium beginning July 1 following the even-numbered-year regular session of the General Assembly;
 - (f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee on Appropriations and Revenue an annual budget and detailed quarterly financial reports;
 - (g) Conduct periodic audits, independently or in cooperation with the Labor Cabinet or the Department of Revenue, of all entities subject to the assessments imposed in this chapter; and
 - (h) Report monthly to the Committees on Appropriations and Revenue and on Labor and Industry its monthly expenditures of restricted agency funds and the nature of the expenditures.
- (3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established, including, but not limited to, the power:
- (a) To sue and be sued, complain, or defend, in its name;
 - (b) To elect, appoint, or hire officers, agents, and employees, and define their duties and fix their compensation within the limits of its budget approved by the General Assembly. ***Notwithstanding any provision of KRS Chapter 18A to the contrary, officers and employees of the funding commission may be exempted from the classified service;***
 - (c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45A;
 - (d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;
 - (e) To take any and all other actions consistent with the purposes of the commission and the provisions of this chapter; and
 - (f) To make and promulgate administrative regulations.
- (4) The Kentucky Workers' Compensation Funding Commission may utilize the investment expertise and advice of the Office of Financial Management within the Finance and Administration Cabinet. The Kentucky Workers' Compensation Funding Commission may procure one (1) or more consulting firms and enter into a personal service contract with such consulting firms to provide investment advisory, investment counseling, or investment management services. The Office of Financial Management shall participate in the selection of any firms for investment services provided, however, the Kentucky Workers' Compensation Funding Commission shall have the right to make the final decision on the selection of any firms. Notwithstanding any provisions of this section to the contrary, all contracts for investment advisory, investment counseling, or investment management services or for the management of assets shall be subject to KRS Chapter 45A. The fees charged by financial institutions for managing the investments of the funds of the funding commission shall be paid from the investment earnings of the funds.
- (5) The commission shall be attached to the Labor Cabinet for administrative purposes only.

➔Section 5. KRS 342.1231 is amended to read as follows:

- (1) The funding commission may mail to the ***assessment payer***~~taxpayer~~ a notice of any assessment assessed by it. The assessment shall be final if not protested in writing to the funding commission within thirty (30) days from the date of notice. ***Payment for the assessment, penalty and interest, and expenses shall be received by the funding commission within thirty (30) days from the date the notice becomes final.*** The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the funding commission may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of such extension may be reviewed in the same manner as a protested assessment.
- (2) After a timely protest has been filed, the ***assessment payer***~~taxpayer~~ may request a conference with the funding commission. The request shall be granted in writing stating the date and time set for the conference. The ***assessment payer***~~taxpayer~~ may appear in person or by representative. Further conferences may be held by mutual agreement.
- (3) After considering the ***assessment payer's***~~taxpayer's~~ protest, including any matters presented at the final conference, the funding commission shall issue a final ruling on any matter still in controversy, which shall be mailed to the ***assessment payer***~~taxpayer~~. The ruling shall state that it is a final ruling of the funding

commission, generally state the issues in controversy, the funding commission's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Claims Commission pursuant to KRS 49.220.

- (4) The **assessment payer**~~[taxpayer]~~ may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the funding commission shall issue such ruling within **sixty (60)**~~[thirty (30)]~~ days **or at the next board of directors meeting, whichever is later**, from the date the request is received by the funding commission.
- (5) After a final ruling has been issued, the **assessment payer**~~[taxpayer]~~ may appeal to the Kentucky Claims Commission pursuant to KRS 49.220.
- (6) The expenses incurred by the funding commission in conducting audits required in this chapter shall be paid by the **audited entities**~~[insurance companies]~~ in accordance with administrative regulations promulgated by the funding commission.
- (7) ***Notwithstanding any provision to the contrary, a notice of assessment under subsection (1) of this section shall not be collected unless the notice of assessment is mailed to the assessment payer not later than five (5) years from the due date of the quarterly premium report or the date the amended quarterly premium report is filed, whichever is later. A quarterly premium report shall not be amended later than one (1) year after the due date of the quarterly premium report.***
- (8) ***Assessment payers shall preserve, retain, and provide all documents relevant to quarterly premium reports and subject to audits to the funding commission upon request during the completion of the audit.***
- (9)
 - (a) ***The funding commission may mail the assessment payer notice of a refund amount to be returned to an insured. The insurance carrier shall pay the amount of the refund to the insured within sixty (60) days from the date of notice sent by the funding commission. If, after good faith efforts, the refund cannot be returned to the insured, the refund amount shall be remitted to the funding commission within thirty (30) days from the last date of attempting the refund.***
 - (b) ***If a refund amount to an insured is unpaid on the date on which it is due, then that amount shall bear a penalty of one and one-half percent (1.5%) per month from that due date. The funding commission shall have the authority to waive part or all of the penalty where failure to pay is shown, to the satisfaction of the funding commission, to be for a reasonable cause.***
- (10) ***"Assessment payer"***~~["Taxpayer"]~~ as used in this section means insurance carrier, self-insured group, and self-insured employer.

➔Section 6. KRS 342.1242 is amended to read as follows:

- (1) There is created the Kentucky coal workers' pneumoconiosis fund which shall have one-half (1/2) of the liability for income benefits, including retraining benefits, payable for claims brought under KRS 342.732 for last exposure incurred on or after December 12, 1996, which are filed on or before June 30, 2017. Income benefit payments by the Kentucky coal workers' pneumoconiosis fund shall be made contemporaneous with the payments made by the employer, except that the employer shall make all payments due under a final award or approved settlement for any claims filed after June 30, 2017.
- (2) For claims brought under KRS 342.732 for last exposure incurred on or after December 12, 1996 which are filed on or before June 30, 2017, the employer shall defend any claim brought under KRS 342.732 and upon conclusion shall seek participation in payment of the final award or settlement by the Kentucky coal workers' pneumoconiosis fund by making written request upon the director in the manner prescribed by administrative regulation to be promulgated by the commissioner of the Department of Workers' Claims.
- (3)
 - (a) For the purpose of funding the liabilities of the Kentucky coal workers' pneumoconiosis fund and financing the administration and operation of the Kentucky coal workers' pneumoconiosis fund, as reflected in the budget of the Commonwealth enacted by the General Assembly, a Kentucky coal workers' pneumoconiosis fund assessment at the rate of three percent (3%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1997, through December 31, 1997, an assessment at the rate of three percent (3%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.

- (b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional Kentucky coal workers' pneumoconiosis fund assessment at the rate of two and one-half cents (\$0.025) per ton is hereby imposed upon the total annual amount of tons of coal severed on or after January 1, 1997, through December 31, 1997, by every entity engaged in the severance of coal as required pursuant to KRS Chapter 143.
- (c) As of June 30, 2018, and each year thereafter until the liabilities of the fund are fully funded, the Funding Commission and the Kentucky Employers' Mutual Insurance Authority shall determine the assets of the fund and the claim liability incurred by the fund for all previous years and shall establish the rates under the provisions of paragraphs (a) and (b) of this subsection necessary as of January 1 of the next year to fund claim liabilities through December 31 of the next year of operations. The assessment rate authorized by this section for premiums received and tons of coal severed shall be set so as to receive fifty percent (50%) of the needed revenue from each assessment. Notice of any rate changes shall be provided no later than October 1 of the year preceding the rate change.
- (4) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be transferred to the Kentucky Employers' Mutual Insurance Authority, which is administering the coal workers' pneumoconiosis fund. In addition, the powers and responsibilities of the Kentucky Workers' Compensation Funding Commission including its fiduciary duties and responsibilities relating to assessments collected for the special fund pursuant to KRS 342.122, ***Section 3 of this Act***, 342.1222, 342.1223, 342.1226, 342.1229, and 342.1231 shall apply to assessments collected for the Kentucky coal workers' pneumoconiosis fund created pursuant to this section. Each entity subject to assessments for the Kentucky coal workers' pneumoconiosis fund shall provide any and all information requested by the Kentucky Workers' Compensation Funding Commission necessary to carry out its powers and responsibilities relating thereto.
- (5) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received or the coal is processed or severed. Receipt shall be considered timely through actual physical receipt or by postmark by the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments. Penalty and interest penalties imposed pursuant to KRS 342.1221 and the authority of the Kentucky Workers' Compensation Funding Commission to waive part or all of the penalty shall apply to assessments for the Kentucky coal workers' pneumoconiosis fund in the same manner and amount as they are imposed on assessments for the special fund under KRS 342.122.
- (6) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.
- (7) Claims for benefits by reason of the development of coal workers' pneumoconiosis shall be maintained pursuant to KRS 342.732, and the Kentucky coal workers' pneumoconiosis fund shall be liable for payment of a part of the liability only for employees of employers engaged in the severance or processing of coal as defined in KRS 342.0011(23)(a) and (b).
- (8) Assessments issued pursuant to this section shall cease to be imposed once the liabilities of the fund are fully funded. After the liabilities are fully funded, any excess assessments shall be refunded to the employers on a pro rata basis.
- (9) ***The Kentucky Employers' Mutual Insurance Authority shall reimburse the funding commission for any expenses incurred with regard to the collection of assessments for the coal workers' pneumoconiosis fund and other incurred expenses related to the coal workers' pneumoconiosis fund.***

➔Section 7. KRS 342.1243 is amended to read as follows:

- (1) Notwithstanding any provisions of this chapter or any other provisions to the contrary, the Kentucky coal workers' pneumoconiosis fund shall have no liability for income benefits for coal workers' pneumoconiosis claims filed or reopened on or after July 1, 2017.
- (2) Notwithstanding any provisions of this chapter or any other provisions to the contrary, as soon as practically possible after July 1, 2017, all of the assets and liabilities of the Kentucky coal workers' pneumoconiosis fund shall be transferred from the Kentucky Workers' Compensation Funding Commission and Division of Workers' Compensation Funds to the Kentucky Employers' Mutual Insurance Authority through a loss portfolio transfer agreement. The Kentucky Employers' Mutual Insurance Authority shall have full authority

and responsibility over the Kentucky coal workers' pneumoconiosis fund's claims and shall administer the claims as permitted pursuant to KRS Chapter 342.

- (3) Notwithstanding the provisions of KRS 342.1242, the Workers' Compensation Funding Commission shall impose an assessment at an annual rate of fourteen percent (14%) upon the amount of workers' compensation premiums received on or after January 1, 2017, through December 31, 2017, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every self-insured group operating under the provisions of KRS 342.350(4) and KRS Chapter 304, from employers engaged in the severance or processing of coal. Likewise, on or after January 1, 2017, through December 31, 2017, an assessment at the rate of fourteen percent (14%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.
- (4) Notwithstanding the provisions of KRS 342.1242, the Workers' Compensation Funding Commission shall impose an assessment at an annual rate of fourteen percent (14%) upon the amount of workers' compensation premiums received on or after January 1, 2018, through December 31, 2018, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every self-insured group operating under the provisions of KRS 342.350(4) and Chapter 304, from employers engaged in the severance or processing of coal. Likewise, on or after January 1, 2018, through December 31, 2018, an assessment at the rate of fourteen percent (14%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.
- (5) Notwithstanding the provisions of KRS 342.1242, in addition to the assessments in subsection (3) and (4) of this section, for the calendar years of 2017 and 2018, an assessment at the rate of fifteen cents (\$0.15) per ton shall be imposed upon the total annual amount of tons of coal severed by every entity engaged in the severance of coal as required pursuant to KRS Chapter 143.
- (6) The assessments imposed by this section shall supersede any assessment imposed pursuant to KRS 342.1242 for the calendar years of 2017 and 2018. Any amount paid and collected that exceeds the assessment imposed by this section in calendar year 2017 shall be reimbursed to the employer or credited to the employer's account subject to the preference of the employer.
- (7) Assessments pursuant to this section and KRS 342.1242 that are collected by the Kentucky Worker's Compensation Funding Commission shall be transferred to the Kentucky Employers' Mutual Insurance Authority.
- (8) When the Kentucky Workers' Compensation Funding Commission and the Kentucky Employers' Mutual Insurance Authority have determined ***final audits are closed and the liability of the fund is fully funded***~~that the Kentucky coal workers' pneumoconiosis fund has fully funded its liabilities~~, then the authority for imposing ***assessment rates***~~assessments~~ pursuant to this section and KRS 342.1242 shall cease to exist~~, and the Kentucky coal workers' pneumoconiosis fund shall be abolished~~. Any remaining assessments received following the exhaustion of liabilities shall be refunded pro rata to all employers who have paid an assessment in the year that liabilities are fully funded. ***When all claim payouts are completed, the Kentucky coal workers' pneumoconiosis fund shall be abolished.***

Signed by Governor April 2, 2018.

CHAPTER 55

(HB 385)

AN ACT relating to design/build projects.

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

➔Section 1. KRS 176.431 is amended to read as follows:

- (1) (a) Notwithstanding any conflicting provisions of this chapter and KRS Chapters 45A and 177, ***each fiscal year***, the Transportation Cabinet is authorized to utilize design/build procurement methods for up to:
 1. Five (5) ***major*** demonstration road and bridge related projects, ***with a total cost of each project not to exceed three hundred million dollars (\$300,000,000); and***

2. *Ten (10) demonstration road and bridge related projects, with a total cost of each project not to exceed seventy-five million dollars (\$75,000,000)*~~[in each fiscal year].~~

- (b) The projects *outlined in this subsection* shall be identified in the biennial highway construction plan ~~and shall be limited to those with a construction phase not greater than thirty million dollars (\$30,000,000)].~~
- (2) For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of this chapter. The projects shall be selected based on engineering factors that determine a design/build process will provide the best value for the Commonwealth. Factors to consider may include but not be limited to the following: project delivery schedule, technical complexity, constructability, and estimated project cost.
- (3) The secretary of the Transportation Cabinet shall determine the nature and scope of each design/build project, and shall submit a report identifying and detailing the demonstration road and bridge related projects, including the estimated cost savings, to the Interim Joint Committee on Appropriations and Revenue by December 1 of each fiscal year.

Signed by Governor April 2, 2018.

CHAPTER 56

(HB 360)

AN ACT relating to state agency children.

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

➔Section 1. KRS 158.135 is amended to read as follows:

- (1) As used in this section, unless the context otherwise requires:
- (a) "State agency children" means:
1. a. Those children of school age committed to or in custody of the Cabinet for Health and Family Services and placed, or financed by the cabinet, in a Cabinet for Health and Family Services operated or contracted institution, treatment center, facility, including those for therapeutic foster care and excluding those for nontherapeutic foster care; or
 - b. Those children placed or financed by the Cabinet for Health and Family Services in a private facility pursuant to child care agreements including those for therapeutic foster care and excluding those for nontherapeutic foster care;
 2. Those children of school age in home and community-based services provided as an alternative to intermediate care facility services for the intellectually disabled;~~and~~
 3. Those children committed to or in custody of the Department of Juvenile Justice and placed in a department operated or contracted facility or program; *and*
 4. *Those children referred by a family accountability, intervention, and response team as described in KRS 605.035 and admitted to a Department of Juvenile Justice operated or contracted day treatment program.*
- (b) "Current costs and expenses" means all expenditures, other than for capital outlay and debt service, which are in excess of the amount generated by state agency children under the Support Education Excellence in Kentucky funding formula pursuant to KRS 157.360. These expenditures are necessary to provide a two hundred thirty (230) day school year, smaller teacher pupil ratio, related services if identified on an individual educational plan, and more intensive educational programming; and
- (c) "Therapeutic foster care" means a remedial care program for troubled children and youth that is in the least restrictive environment where the foster parent is trained to implement planned, remedial supervision and care leading to positive changes in the child's behavior. Children served in this placement have serious emotional problems and meet one (1) or more of the following criteria:

1. Imminent release from a treatment facility;
 2. Aggressive or destructive behavior;
 3. At risk of being placed in more restrictive settings, including institutionalization; or
 4. Numerous placement failures.
- (2) (a) Unless otherwise provided by the General Assembly in a budget bill, any county or independent school district that provides elementary or secondary school services to state agency children shall be reimbursed through a contract with the Kentucky Educational Collaborative for State Agency Children. The school services furnished to state agency children shall be equal to those furnished to other school children of the district.
- (b) The Department of Education shall, to the extent possible within existing appropriations, set aside an amount of the state agency children funds designated by the General Assembly in the biennial budget to reimburse a school district for its expenditures exceeding twenty percent (20%) of the total amount received from state and federal sources to serve a state agency child.
- (3) The General Assembly shall, if possible, increase funding for the education programs for state agency children by a percentage increase equal to that provided in the biennial budget for the base funding level for each pupil in the program to support education excellence in Kentucky under KRS 157.360 and, if applicable, by an amount necessary to address increases in the number of state agency children being served.
- (4) The Kentucky Educational Collaborative for State Agency Children shall make to the chief state school officer the reports required concerning school services for state agency children, and shall file with the Cabinet for Health and Family Services unit operating or regulating the institution or day treatment center, or contracting for services, in which the children are located a copy of the annual report made to the chief state school officer.
- (5) The Cabinet for Health and Family Services shall contract with a university-affiliated training resource center utilizing all funds generated by the children in state agency programs, except Oakwood and Hazelwood funds, and the funds in the Kentucky Department of Education budget, pursuant to this section, as well as any other educational funds for which all Kentucky children are entitled. The total of these funds shall be utilized to provide educational services through the Kentucky Educational Collaborative for State Agency Children established in KRS 605.110.
- (6) Notwithstanding the provisions of any other statute, the Kentucky Educational Collaborative for State Agency Children shall operate a two hundred thirty (230) day school program.

Signed by Governor April 2, 2018.

CHAPTER 57

(HB 348)

AN ACT relating to judicial districts and circuits.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 21A IS CREATED TO READ AS FOLLOWS:

- (1) *Beginning in 2020 and every eight (8) years thereafter, the Supreme Court may direct the Administrative Office of the Courts to perform a weighted caseload analysis to determine the need to reduce, increase, or rearrange the Commonwealth's judicial circuits and districts, to reallocate the assignment of judges, or to modify the number of judges relative to their respective populations or caseloads. This analysis shall include caseload totals by case type and case weight and the total number of judges necessary for the Commonwealth's judicial circuits and districts.*
- (2) *The Supreme Court shall submit any weighted caseload analysis performed under subsection (1) of this section to the General Assembly by December 31 of the year in which the analysis is performed. If the analysis indicates a need to reduce, increase, or rearrange the judicial circuits or districts, to reallocate the assignment of judges, or to modify the number of judges due to population or caseload changes, a certification of necessity shall be submitted as required by Sections 112 and 113 of the Constitution of*

Kentucky, which may include a proposed redrawing of circuit or district boundaries, reallocation of the assignment of judges, or modification of the number of judges.

➔Section 2. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

- (1) Fourth Judicial Circuit.
- (2) Fifth Judicial Circuit.
- (3) Tenth Judicial Circuit.
- (4) Eleventh Judicial Circuit.
- (5) Twelfth Judicial Circuit.
- (6) Thirteenth Judicial Circuit.
- (7) Eighteenth Judicial Circuit.
- (8) Twentieth Judicial Circuit.
- (9) Twenty-first Judicial Circuit.
- (10) Twenty-fourth Judicial Circuit.
- (11) Thirty-second Judicial Circuit.
- (12) Thirty-fourth Judicial Circuit.
- (13) Thirty-seventh Judicial Circuit.
- (14) Thirty-eighth Judicial Circuit.
- (15) Thirty-ninth Judicial Circuit.
- (16) Forty-first Judicial Circuit.
- (17) Forty-second Judicial Circuit.
- (18) Forty-third Judicial Circuit.
- (19) Forty-sixth Judicial Circuit.
- (20) Forty-ninth Judicial Circuit.
- (21) Fiftieth Judicial Circuit.
- (22) Fifty-first Judicial Circuit.
- (23) Fifty-third Judicial Circuit.
- (24) ~~Fifty-fifth Judicial Circuit.~~
- ~~(25)~~ Fifty-seventh Judicial Circuit.

➔Section 3. KRS 23A.045 is amended to read as follows:

The following judicial circuits are entitled to three (3) Circuit Judges and shall have three (3) numbered divisions of the Circuit Court:

- (1) Second Judicial Circuit.
- (2) Third Judicial Circuit.
- (3) Sixth Judicial Circuit.
- (4) Fourteenth Judicial Circuit.
- (5) Seventeenth Judicial Circuit.
- (6) Twenty-seventh Judicial Circuit.
- (7) ~~Twenty-eighth Judicial Circuit.~~

~~(8) —~~ Thirty-first Judicial Circuit.

~~(8) [(9)]~~ Thirty-fifth Judicial Circuit.

~~(9) [(10)]~~ Forty-eighth Judicial Circuit.

~~[(11) Fifty-fourth Judicial Circuit.]~~

(10) *Fifty-fifth Judicial Circuit.*

➔ Section 4. KRS 23A.050 is amended to read as follows:

The following judicial circuits are entitled to four (4) judges and shall have four (4) numbered divisions of the Circuit Court:

- (1) Eighth Judicial Circuit.
- (2) Ninth Judicial Circuit.
- (3) Twenty-fifth Judicial Circuit.
- (4) *Twenty-eighth Judicial Circuit.***
- (5) *Fifty-fourth Judicial Circuit.***

➔ Section 5. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

- (1) Second Judicial District.
- (2) Third Judicial District.
- (3) Fourth Judicial District.
- (4) Ninth Judicial District.
- (5) Eleventh Judicial District.
- (6) Twelfth Judicial District.
- (7) Thirteenth Judicial District.
- (8) Fourteenth Judicial District.
- (9) Fifteenth Judicial District.
- (10) Seventeenth Judicial District.
- (11) Twenty-first Judicial District.
- (12) Twenty-fourth Judicial District.
- (13) Twenty-seventh Judicial District.
- (14) Twenty-eighth Judicial District.
- (15) Thirty-first Judicial District.
- (16) Thirty-second Judicial District.
- (17) Thirty-fourth Judicial District.
- (18) Thirty-fifth Judicial District.
- (19) Thirty-eighth Judicial District.
- (20) Fortieth Judicial District.
- (21) Forty-first Judicial District.
- (22) Forty-sixth Judicial District.
- (23) Forty-eighth Judicial District.
- (24) Fifty-first Judicial District.

- (25) Fifty-third Judicial District.
- (26) Fifty-fourth Judicial District.
- (27) ~~Fifty-fifth Judicial District.~~
- ~~(28)~~ Fifty-sixth Judicial District.

➔Section 6. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

- (1) Fourth Judicial Circuit.
- (2) Fifth Judicial Circuit.
- (3) Tenth Judicial Circuit.
- (4) Eleventh Judicial Circuit.
- (5) Twelfth Judicial Circuit.
- (6) Thirteenth Judicial Circuit.
- (7) Eighteenth Judicial Circuit.
- (8) Twentieth Judicial Circuit.
- (9) Twenty-first Judicial Circuit.
- (10) Twenty-fourth Judicial Circuit.
- (11) ***Thirty-first Judicial Circuit.***
- (12) Thirty-second Judicial Circuit.
- ~~(13)~~~~(12)~~ Thirty-fourth Judicial Circuit.
- ~~(14)~~~~(13)~~ Thirty-seventh Judicial Circuit.
- ~~(15)~~~~(14)~~ Thirty-eighth Judicial Circuit.
- ~~(16)~~~~(15)~~ Thirty-ninth Judicial Circuit.
- ~~(17)~~~~(16)~~ Forty-first Judicial Circuit.
- ~~(18)~~~~(17)~~ Forty-second Judicial Circuit.
- ~~(19)~~~~(18)~~ Forty-third Judicial Circuit.
- ~~(20)~~~~(19)~~ Forty-sixth Judicial Circuit.
- ~~(21)~~~~(20)~~ Forty-ninth Judicial Circuit.
- ~~(22)~~~~(21)~~ Fiftieth Judicial Circuit.
- ~~(23)~~~~(22)~~ Fifty-first Judicial Circuit.
- ~~(24)~~~~(23)~~ Fifty-third Judicial Circuit.
- ~~(25)~~~~(24)~~ Fifty-fifth Judicial Circuit.
- ~~(26)~~~~(25)~~ Fifty-seventh Judicial Circuit.

➔Section 7. KRS 23A.045 is amended to read as follows:

The following judicial circuits are entitled to three (3) Circuit Judges and shall have three (3) numbered divisions of the Circuit Court:

- (1) Second Judicial Circuit.
- (2) Third Judicial Circuit.
- (3) Sixth Judicial Circuit.
- (4) Fourteenth Judicial Circuit.

- (5) Seventeenth Judicial Circuit.
- (6) Twenty-seventh Judicial Circuit.
- (7) Twenty-eighth Judicial Circuit.
- (8) ~~Thirty-first Judicial Circuit.~~
- ~~(9)~~ } Thirty-fifth Judicial Circuit.
- ~~(9)~~~~(10)~~ } Forty-eighth Judicial Circuit.
- ~~(10)~~~~(11)~~ } Fifty-fourth Judicial Circuit.

➔Section 8. KRS 24A.030 is amended to read as follows:

The state is divided into judicial districts, each to be composed of the following counties:

- (1) First Judicial District. **Ballard, Carlisle**, Fulton, and Hickman.
- (2) Second Judicial District. McCracken.
- (3) Third Judicial District. Christian.
- (4) Fourth Judicial District. Hopkins.
- (5) Fifth Judicial District. Crittenden, Union, and Webster.
- (6) Sixth Judicial District. Daviess.
- (7) Seventh Judicial District. Logan and Todd.
- (8) Eighth Judicial District. Warren.
- (9) Ninth Judicial District. Hardin.
- (10) Tenth Judicial District. Hart and Larue.
- (11) Eleventh Judicial District. Green, Marion, Taylor, and Washington.
- (12) Twelfth Judicial District. Henry, Oldham, and Trimble.
- (13) Thirteenth Judicial District. Garrard, Jessamine, and Lincoln.
- (14) Fourteenth Judicial District. Bourbon, Scott, and Woodford.
- (15) Fifteenth Judicial District. Carroll, Grant, and Owen.
- (16) Sixteenth Judicial District. Kenton.
- (17) Seventeenth Judicial District. Campbell.
- (18) Eighteenth Judicial District. Harrison, Nicholas, Pendleton, and Robertson.
- (19) Nineteenth Judicial District. Bracken, Fleming, and Mason.
- (20) Twentieth Judicial District. Greenup and Lewis.
- (21) Twenty-first Judicial District. Bath, Menifee, Montgomery, and Rowan.
- (22) Twenty-second Judicial District. Fayette.
- (23) Twenty-third Judicial District. Estill, Lee, and Owsley.
- (24) Twenty-fourth Judicial District. Lawrence, Johnson, and Martin.
- (25) Twenty-fifth Judicial District. Clark and Madison.
- (26) Twenty-sixth Judicial District. Harlan.
- (27) Twenty-seventh Judicial District. Knox and Laurel.
- (28) Twenty-eighth Judicial District. Pulaski and Rockcastle.
- (29) Twenty-ninth Judicial District. Adair and Casey.
- (30) Thirtieth Judicial District. Jefferson.

- (31) Thirty-first Judicial District. Floyd.
- (32) Thirty-second Judicial District. Boyd.
- (33) Thirty-third Judicial District. Perry.
- (34) Thirty-fourth Judicial District. Whitley and McCreary.
- (35) Thirty-fifth Judicial District. Pike.
- (36) Thirty-sixth Judicial District. Magoffin and Knott.
- (37) Thirty-seventh Judicial District. Carter, Elliott, and Morgan.
- (38) Thirty-eighth Judicial District. Butler, Edmonson, Ohio, and Hancock.
- (39) Thirty-ninth Judicial District. Breathitt, Wolfe, and Powell.
- (40) Fortieth Judicial District. Clinton, Russell, and Wayne.
- (41) Forty-first Judicial District. Clay, Jackson, and Leslie.
- (42) Forty-second Judicial District. Calloway.
- (43) Forty-third Judicial District. Barren and Metcalfe.
- (44) Forty-fourth Judicial District. Bell.
- (45) Forty-fifth Judicial District. Muhlenberg and McLean.
- (46) Forty-sixth Judicial District. Breckinridge, Grayson, and Meade.
- (47) Forty-seventh Judicial District. Letcher.
- (48) Forty-eighth Judicial District. Franklin.
- (49) Forty-ninth Judicial District. Allen and Simpson.
- (50) Fiftieth Judicial District. Boyle and Mercer.
- (51) Fifty-first Judicial District. Henderson.
- (52) Fifty-second Judicial District. Graves.
- (53) Fifty-third Judicial District. Shelby, Anderson, and Spencer.
- (54) Fifty-fourth Judicial District. Boone and Gallatin.
- (55) Fifty-fifth Judicial District. Bullitt.
- (56) Fifty-sixth Judicial District. Caldwell, Livingston, Lyon, and Trigg.
- (57) Fifty-seventh Judicial District. Nelson.
- (58) Fifty-eighth Judicial District. Marshall.
- (59) Fifty-ninth Judicial District. ~~Ballard and Carlisle.~~
- ~~(60) Sixtieth Judicial District.~~ Cumberland and Monroe.

➔Section 9. Sections 1 to 5 of this Act have a regular effective date. Sections 6 to 8 of this Act have a delayed effective date of January 2, 2023.

➔Section 10. The term of the new circuit judgeships created by Sections 3 and 4 of this Act shall be effective January 7, 2019, and elections to fill the judgeships shall be placed on ballots for the regular election held in November 2018. Notwithstanding KRS 118A.060(2), a candidate for a judgeship created by Sections 3 and 4 of this Act may file a petition for nomination during the time period beginning on July 2, 2018, and ending at 4 p.m. local time at the place of filing on August 7, 2018. KRS Chapter 118A notwithstanding, all candidates for a judgeship created by Sections 3 and 4 of this Act who file a valid petition for nomination shall be placed on the ballot.

➔Section 11. The General Assembly requests that each additional Circuit Court judgeship added in the Twenty-eighth Judicial Circuit, the Fifty-fourth Judicial Circuit, and the Fifty-fifth Judicial Circuit be designated by the Supreme Court as family court divisions.

➔Section 12. The General Assembly requests that, when the two District Court divisions of the Fifty-fifth Judicial District are reduced to one District Court division in Section 5 of this Act, the division eliminated should be the district currently numbered as "Division One."

➔Section 13. For the purposes of all vacancies, primaries, regular elections, or special elections of district judges occurring on or after January 1, 2022, the districts established in Section 8 of this Act shall be used.

Signed by Governor April 2, 2018.

CHAPTER 58

(HB 319)

AN ACT relating to business opportunities for United States military and veterans.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

- (1) *An administrative body that issues a license, permit, certificate, or other document required to operate within a business, profession, or other occupation in the Commonwealth shall issue within thirty (30) days of receipt of a completed application a license, permit, certificate, or other document to a United States military service member or veteran who is seeking a license, permit, certificate, or other document and currently holds or recently held equivalent documentation issued by another state, the District of Columbia, or any possession or territory of the United States unless:*
 - (a) *The license, permit, certificate, or other document issued by another state, the District of Columbia, or any possession or territory of the United States has been expired for more than two (2) years;*
 - (b) *The license, permit, certificate, or other documentation is not in good standing;*
 - (c) *The holder of the license, permit, certificate, or other document has had the license, permit, certificate, or other document suspended for disciplinary reasons; or*
 - (d) *The board can show substantive evidence of significant statutory deficiency in the training, education, or experience of the United States military service member or veteran, which could cause a health or safety risk to the public.*
- (2) *The United States military service member or veteran shall submit:*
 - (a) *Proof of issuance of a valid license, permit, certificate, or other document issued by another state, the District of Columbia, or any possession or territory of the United States that is active or has been expired for less than two (2) years;*
 - (b) *Proof that the valid license, permit, certificate, or other document issued by another state, the District of Columbia, or any possession or territory of the United States is in good standing or was upon the date of expiration; and*
 - (c) *His or her DD-214 form or other proof of active or prior military service with an honorable discharge, discharge under honorable conditions, or a general discharge under honorable conditions.*
- (3) *A United States military service member or veteran who holds a license, permit, certificate, or other document issued by another state, the District of Columbia, or any possession or territory of the United States who applies for a license, permit, certificate, or other document pursuant to subsection (1) of this section and is denied shall have the right to appeal the decision in accordance with KRS Chapter 13B.*

➔Section 2. KRS 14A.1-070 is amended to read as follows:

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

- (1) "Business" includes every trade, occupation, and profession;
- (2) "Corporation" means a business corporation governed as to its internal affairs by KRS Chapter 271B, a cooperative or association governed as to its internal affairs by KRS Chapter 272, a nonprofit corporation

governed as to its internal affairs by KRS Chapter 273, and a rural electric or rural telephone cooperative corporation governed as to its internal affairs by KRS Chapter 279;

- (3) "Business trust" means a business trust governed as to its internal affairs by KRS Chapter 386 or a statutory trust governed as to its internal affairs by KRS Chapter 386A;
- (4) "Debtor in bankruptcy" means a person who is the subject of:
 - (a) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
 - (b) A comparable order under federal, state, or foreign law governing insolvency;
- (5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;
- (6) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;
- (7) "Entity" means a corporation, business or statutory trust, partnership, limited partnership, limited liability company, limited cooperative association, or unincorporated nonprofit association, governed as to its internal affairs by the laws of the Commonwealth of Kentucky;
- (8) "Foreign business trust" means a business or statutory trust not governed as to its internal affairs by KRS Chapter 386 or 386A;
- (9) "Foreign corporation" means a corporation as defined in subsection (2) of this section that is not:
 - (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (10) "Foreign entity" means a corporation, not-for-profit corporation, cooperative, limited cooperative association, association, business or statutory trust, partnership, limited partnership, limited liability company, or unincorporated nonprofit association not:
 - (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (11) "Foreign limited cooperative association" means a limited cooperative association that is not:
 - (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (12) "Foreign limited liability partnership" means a partnership that:
 - (a) Is formed under laws other than the laws of this Commonwealth; and
 - (b) Has the status of a limited liability partnership under those laws;
- (13) "Foreign professional service corporation" has the same meaning as in KRS 274.005;
- (14) "Foreign rural electric cooperative" means a rural electric cooperative organized otherwise than under KRS 279.010 to 279.210;
- (15) "Foreign rural telephone cooperative" means a rural telephone cooperative organized otherwise than under KRS 279.310 to 279.990 excepting 279.570;
- (16) "Foreign unincorporated nonprofit association" means an unincorporated nonprofit association that is not:
 - (a) Organized in accordance with the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (17) "Good standing" means that all annual reports which are required to be received from an entity or foreign entity have been delivered to and filed by the Secretary of State, that all other lawfully required statutory documentation has been received and filed, and that all fees, costs, and expenses, including penalties incurred in connection therewith, have been paid;

- (18) "Limited cooperative association" means a limited cooperative association governed as to its internal affairs by KRS Chapter 272A;
- (19) "Limited liability company" has the same meaning as in KRS 275.015;
- (20) "Limited liability partnership" means a partnership that has filed a statement of qualification under KRS 362.1-931 or a registration as a registered limited liability partnership under KRS 362.555 and does not have a similar statement or registration in effect in any other jurisdiction;
- (21) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity or foreign entity;
- (22) "Nonprofit corporation," other than in the term "foreign nonprofit corporation," means a nonprofit corporation incorporated pursuant to and governed as to its internal affairs by KRS Chapter 273 or predecessor law;
- (23) "Organic act" means the law of a state or other jurisdiction governing the organization and internal affairs of an entity or foreign entity;
- (24) "Organized" means organized, incorporated, or formed;
- (25) "Organizational filing" means a filing made with the Secretary of State as a precondition to the formation, organization, or incorporation of an entity, including articles of incorporation, articles of organization, articles of association, certificates of trust, and certificates of limited partnership. A statement of qualification filed pursuant to KRS 362.1-931 or a registration as a limited liability partnership filed pursuant to KRS 362.555 is not an organizational filing;
- (26) "Partnership" means an association of two (2) or more persons to carry on as co-owners a business for profit formed under KRS 362.1-202, predecessor law, or comparable law of another jurisdiction;
- (27) "Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement;
- (28) "Person" means an individual, an entity, a foreign entity, or any other legal or commercial entity;
- (29) "Principal office" means the address required by this chapter or the organic act to be of record with the Secretary of State as the principal office, the principal place of business address, the designated office of a limited partnership, or the chief executive office of a limited liability partnership;
- (30) "Professional service corporation" has the same meaning as in KRS 274.005;
- (31) "Professional services" means the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;
- (32) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein;
- (33) "Qualified person" has the same meaning as in KRS 274.005;
- (34) "Registered agent" means a registered agent appointed in accordance with KRS 14A.4-010 or predecessor law, and is synonymous with agent for service of process;
- (35) "Registered office" means the registered office identified in accordance with and satisfying the requirements of KRS 14A.4-010(1)(b). The registered office address must be a street address;
- (36) "Regulatory board" means the agency that is charged by law with the licensing and regulation of the practice of the profession which the entity is organized to provide;
- (37) "Rural electric cooperative" means a rural electric cooperative governed as to its internal affairs by KRS 279.010 to 279.210;
- (38) "Rural telephone cooperative" means a rural telephone cooperative governed as to its internal affairs by KRS 279.310 to 279.990 excepting KRS 279.570;
- (39) "Series entity" means an entity or a foreign entity authorized and enabled by its organic act and organizational filing to create series having separate rights, powers, or duties with respect to specific property or obligations of the series entity, or the profits and losses associated with specific property or obligations;
- (40) "Sign" or "signature" includes any manual, facsimile, conformed, or electronic signature;

- (41) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States;
- (42) "Statutory trust" means a trust governed as to its internal affairs by KRS Chapter 386A;~~and~~
- (43) "Unincorporated nonprofit association" means an unincorporated nonprofit association governed as to its internal affairs by KRS Chapter 273A;
- (44) ***"Veteran" means any person who served in the United States Armed Forces, Reserves, or National Guard and was separated or released therefrom with an honorable discharge, discharge under honorable conditions, or general discharge under honorable conditions or any person who currently serves in the United States Armed Forces, Reserves, or National Guard; and***
- (45) ***"Veteran-owned business" means a business:***
- (a) ***That is at least fifty-one percent (51%) unconditionally owned by one (1) or more veterans; or***
 - (b) ***In the case of a publicly owned business, in which at least fifty-one percent (51%) of the stock is unconditionally owned by one (1) or more veterans.***

➔SECTION 3. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 14A IS CREATED TO READ AS FOLLOWS:

Any veteran-owned business that is initiated after August 1, 2018, is exempt from paying the filing fees for:

- (1) ***Articles of incorporation, an amendment of articles of incorporation, amended and restated articles of incorporation, or a restatement of articles of incorporation under KRS Chapter 271B for a corporation or under KRS Chapter 273 for a nonprofit corporation;***
- (2) ***Articles of organization, an amendment of articles of organization, a restatement of articles of organization, or an amendment and restatement of articles of organization under KRS Chapter 275 for a limited liability company;***
- (3) ***A statement or renewal of statement of partnership under KRS Chapter 362;***
- (4) ***A statement of partnership authority under Subchapter 1 of KRS Chapter 362;***
- (5) ***A certificate of limited partnership under Subchapter 2 of KRS Chapter 362; or***
- (6) ***A declaration of trust under KRS Chapter 386 for a business trust.***

➔Section 4. KRS 14A.2-060 is amended to read as follows:

- (1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered for filing:
 - (a) Application for use of indistinguishable name\$ 20
 - (b) Application or renewal of application for reserved name\$ 15
 - (c) Cancellation of application for reserved name\$ 10
 - (d) Notice of transfer of reserved name\$ 15
 - (e) Application for registered name\$ 36
 - (f) Application for renewal of registered name\$ 36
 - (g) Statement of change of registered office or registered agent, or both\$ 10
 - (h) Statement of change of principal office address\$ 10
 - (i) Agent's statement of change of registered office for each affected
entity or foreign entity\$ 10
not to exceed a total of\$2,000
 - (j) Reinstatement penalty following administrative dissolution\$ 100
 - (k) Application for certificate of authority\$ 90
 - (l) Application for amended certificate of authority\$ 40

- (m) Certificate of withdrawal\$ 40
- (n) Certificate of existence\$ 10
- (o) Certificate of authorization\$ 10
- (p) Any other document required or permitted to be filed by this chapter\$ 15
- (q) Agent's statement of resignation No fee
- (r) Certificate of administrative dissolution No fee
- (s) Certificate of reinstatement No fee
- (t) Certificate of revocation of authority to transact business No fee
- (u) Certificate of association.....\$ 15
- (2) (a) The Secretary of State shall collect a fee of fifteen dollars (\$15) with respect to each annual report or amendment thereto.
- (b) *Notwithstanding paragraph (a) of this subsection, a veteran-owned business initiated after August 1, 2018, is exempt from paying the fee for filing an annual report or amendment thereto for the first four (4) years after its initial registration, but is not exempt from any filing requirement or deadline for filing an annual report.*
- (3) The Secretary of State shall collect a fee of ten dollars (\$10) each time process is served on him or her under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if he prevails in the proceeding.
- (4) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign entity:
 - (a) Five dollars (\$5) per request for the first five (5) pages and fifty cents (\$0.50) a page for each page thereafter; and
 - (b) Five dollars (\$5) for the certificate.

Signed by Governor April 2, 2018.

CHAPTER 59

(HB 307)

AN ACT relating to mechanical systems.

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

➔Section 1. KRS 236.060 is amended to read as follows:

- (1) This chapter applies to all boilers, pressure vessels, and related piping in the Commonwealth unless statutorily exempted.
- (2) KRS 236.005 to 236.150 shall not apply to boilers or pressure vessels or related piping under federal control.
- (3) KRS 236.005 to 236.150 shall not apply to the following:
 - (a) Portable boilers or pressure vessels located on land dedicated to agricultural use, as defined in KRS 100.111, and used solely for agricultural purposes;
 - (b) Boilers or pressure vessels located at any oil refineries;
 - (c) Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences;
 - (d) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge or hot water heaters which are located in private residences;

- (e) Any pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the Department of Housing, Buildings and Construction under KRS Chapter 234;
- (f) Pressure vessels used for transportation of compressed gases if constructed and operated in compliance with specifications and regulations of another state or federal authority;
- (g) Pressure vessels containing air located on vehicles operating under the regulations of another state or federal authority;
- (h) Pressure vessels having an internal or external operating pressure of fifteen (15) PSI or less;
- (i) Single wall pressure vessels having an inside diameter, width, height, or cross-section diagonal not exceeding six (6) inches;
- (j) Any combination unit having an internal or external pressure in each chamber not exceeding fifteen (15) PSI and differential pressure on the common element not exceeding fifteen (15) PSI;
- (k) Pressure vessels with a nominal water containing capacity of one hundred twenty (120) gallons or less, to be used for domestic supply purposes, for containing water under pressure, including those containing air, the compression of which serves only as a cushion;
- (l) Pressure vessels not exceeding the design pressure at the top of the vessel and with no limitation in size, not exceeding the following:
 - 1. Vessels having an internal or external pressure of fifteen (15) PSI (100 kilopascals); or
 - 2. Combination units having an internal or external pressure in each chamber of fifteen (15) PSI (100 kilopascals) and differential pressure on the common elements not exceeding fifteen (15) PSI (100 kilopascals);
- (m) Pressure vessels containing water heated by steam or other indirect means when none of the following are exceeded:
 - 1. Heat input of two hundred thousand (200,000) BTU/Hr.;
 - 2. Water temperature of two hundred ten (210) degrees Fahrenheit; *or*
 - 3. Water storage capacity of one hundred twenty (120) gallons;
- (n) Coil type hot water boilers without a steam space and where no steam is generated within the confines of the unit but where water flashes into steam when released to atmospheric pressure by the operation of a manually operated nozzle, unless one (1) of the following is exceeded:
 - 1. Three quarter (3/4) inch inside diameter tubing or pipe size with no drum or header attached;
 - 2. Six (6) gallon water containing capacity; *or*
 - 3. Three hundred fifty (350) degrees Fahrenheit water temperature;
- (o) Water heaters, hot water supply boilers, or hot water storage tanks, which are directly fired with oil, gas, or electricity, when none of the following limitations are exceeded:
 - 1. Heat input of two hundred thousand (200,000) BTU/Hr.;
 - 2. A water temperature of two hundred ten (210) degrees Fahrenheit; *or*
 - 3. A water containing capacity of one hundred twenty (120) gallons;
- (p) Pressure vessels which may be classified as:
 - 1. Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices such as pumps, compressors, turbines, generators, engines, and hydraulic or pneumatic cylinders where the primary design considerations, stresses, or both are derived from the functional requirements of the device; or
 - 2. Structures whose primary function is the transport of fluids from one location to another within a system of which it is an integral part, that is, piping system; or
- (q) Pressure vessels ASME "UM" stamped~~[-, registered with the national board,]~~ and which do not exceed the following:
 - 1. One and one-half (1-1/2) cubic feet in volume and six hundred (600) PSI MAWP;

2. Three (3) cubic feet in volume and three hundred fifty (350) PSI MAWP;~~{or}~~
 3. Five (5) cubic feet in volume and two hundred fifty (250) PSI MAWP; **or**
 4. ***Compressed air receivers of one hundred twenty (120) gallons or less.***
- (4) This chapter shall apply only to piping associated with boilers and pressure vessels operating in the Commonwealth in the following applications and fluid services:
- (a) All boiler external piping, conforming to ASME B31.1;
 - (b) Non-boiler external piping, including steam, boiler feedwater, blowdown, vents, drains, and chemical injection outside the boiler boundary conforming to ASME B31.1 or B31.3;
 - (c) All building services piping conforming to ASME B31.9;
 - (d) All compressed air piping emanating from a pressure vessel conforming to ASME B31.1, B31.3, or B31.9;
 - (e) All hot oil piping conforming to ASME B31.1 or B31.3; **and**
 - (f) All anhydrous ammonia piping conforming to ASME B31.3 or B31.5~~;~~
 - ~~(g) All cryogenic service piping conforming to ASME B31.3 or B31.5;~~
 - ~~(h) All hydrogen piping used for vehicle transportation fuel conforming to ASME B31.12;~~
 - ~~(i) All piping associated with a pressure vessel for human occupancy conforming with ASME B31.1 or B31.3; and~~
 - ~~(j) Refrigeration service piping in safety group A3, B1, B2, and B3 fluids as defined by ASME and conforming to ASME B31.5}.~~
- (5) Piping associated with boilers and pressure vessels exempted in subsection (2) of this section shall conform to the appropriate ASME piping code. The owner of the piping shall assume all oversight and responsibilities as established in the appropriate ASME piping code.

Signed by Governor April 2, 2018.

CHAPTER 60

(HB 128)

AN ACT relating to instruction on the Holocaust and other acts of genocide.

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

➔Section 1. KRS 156.160 is amended to read as follows:

- (1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:
 - (a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:
 1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;~~{and}~~
 2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law; **and**

3. ***Every public middle and high school's curriculum shall include instruction on the Holocaust and other cases of genocide, as defined by the United Nations Convention on the Prevention and Punishment of the Crime of Genocide, that a court of competent jurisdiction, whether a court in the United States or the International Court of Justice, has determined to have been committed by applying rigorous standards of due process;***
 - (b) Courses of study or educational experiences available to students in all middle and high schools to fulfill the prerequisites for courses in advanced science and mathematics as defined in KRS 158.845;
 - (c) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;
 - (d) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;
 - (e) The requirements for an alternative high school diploma for students with disabilities whose individualized education program indicates that, in accordance with 20 U.S.C. sec. 1414(d)(1)(A):
 1. The student cannot participate in the regular statewide assessment; and
 2. An appropriate alternate assessment has been selected for the student based upon a modified curriculum and an individualized course of study;
 - (f) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;
 - (g) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;
 - (h) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;
 - (i) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;
 - (j)
 1. Beginning with the 2010-2011 school year, a dental screening or examination by a dentist, dental hygienist, physician, registered nurse, advanced practice registered nurse, or physician assistant that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a dental screening or examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a five (5) or six (6) year-old child is enrolled in a public school.
 2. A child shall be referred to a licensed dentist if a dental screening or examination performed by anyone other than a licensed dentist identifies the possibility of dental disease;

- (k) The transportation of children to and from school;
 - (l) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;
 - (m) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;
 - (n) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and
 - (o) The disposal of real and personal property owned by local boards of education.
- (2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:
- 1. An alternative approach will achieve the same result required by the administrative regulation;
 - 2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
 - 3. There is a finding of good cause for the waiver.
- (b) The following shall not be subject to waiver:
- 1. Administrative regulations relating to health and safety;
 - 2. Administrative regulations relating to civil rights;
 - 3. Administrative regulations required by federal law; and
 - 4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.
- (c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.
- (3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.
- (4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:
- (a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;
 - (b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;
 - (c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and
 - (d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

➔Section 2. This Act may be cited as the Ann Klein and Fred Gross Holocaust Education Act.

Signed by Governor April 2, 2018.

CHAPTER 61

(HB 124)

AN ACT relating to enhanced standards and criteria for substance use disorder treatment and recovery services and programs and declaring an emergency.

WHEREAS, substance use disorder destroys and fractures families and individual lives, communities, and futures, and fills court dockets, jails, hospital emergency rooms, neonatal intensive care units, and morgues; and

WHEREAS, people with substance use disorder are suffering from a chemically inflicted disease that attacks the brain and tortures the body; and

WHEREAS, opioid use disorder increases the person's tolerance to pain killers, and individuals take higher doses of the drug to stave off withdrawal leading to a rapid spiral; and

WHEREAS, substance use disorder has reached epidemic levels in Kentucky with more than 6,800 drug-related overdoses reported in 2016; and

WHEREAS, the number of drug-related overdose deaths each year in Kentucky has increased by nearly 200 percent since 2006; and

WHEREAS, substance use disorder cuts across all demographics and touches everyone; it does not matter where you live, how intelligent you are, or your income; and

WHEREAS, no one chooses the life of a person with substance use disorder, but there is hope and recovery; and

WHEREAS, substance use disorder is a complex issue, and there needs to be a continuum of care and treatment; and

WHEREAS, the use of evidence-based practice is critical to the quality and effectiveness of substance use disorder treatment and recovery services and programs; and

WHEREAS, the federal government has declared the opioid crisis a public health emergency;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

- (1) *The Cabinet for Health and Family Services shall conduct a comprehensive review of all current state licensure and quality standards that apply to substance use disorder treatment and recovery services and programs that operate within the Commonwealth of Kentucky.*
- (2) *Based on the review conducted pursuant to subsection (1) of this section, the cabinet shall develop enhanced licensure and quality standards for substance use disorder treatment and recovery that include but are not limited to residential, outpatient, and medication-assisted treatment (MAT) services. The enhanced standards shall include, at a minimum, the following:*
 - (a) *A set of comprehensive quality standards and criteria for substance use disorder treatment and recovery services and programs that are based on nationally recognized and evidence-based standards;*
 - (b) *Standardized, nationally recognized outcome measures for substance use disorder treatment programs and a process for collection and review of results; and*
 - (c) *Conditions necessary for reimbursement with state funds for the provision of substance use disorder treatment and recovery services and programs.*
- (3) *By January 1, 2019, the cabinet shall promulgate administrative regulations necessary for implementing the enhanced licensure and quality standards, including application fees for licenses, not to exceed the direct and actual cost incurred by the cabinet to perform the licensure for substance use disorder treatment and recovery services and programs.*
- (4) *The provisions of this section are subject to available funding.*

➔Section 2. KRS 196.288 is amended to read as follows:

- (1) The department shall measure and document cost savings resulting from amendments to or creation of statutes in KRS Chapters 27A, 196, 197, 431, 439, 532, 533, and 534 contained in 2011 Ky. Acts ch. 2. Measured and documented savings shall be reinvested or distributed as provided in this section.
- (2) The department shall establish a baseline for measurement using the average number of inmates incarcerated at each type of penitentiary as defined in KRS 197.010 and at local jails in fiscal year 2010-2011.
- (3) The department shall determine the average cost of:
 - (a) Incarceration for each type of penitentiary as defined in KRS 197.010 and for local jails, including health care costs, transportation costs, and other related costs, for one (1) inmate for one (1) year for the immediately preceding fiscal year;
 - (b) Providing probation and parole services for one (1) parolee for one (1) year for the immediately preceding fiscal year; and
 - (c) Reentry services and peer support as a condition of parole for those with opiate addiction and other substance abuse disorders.
- (4) Beginning with the budget request for the 2012-2014 fiscal biennium, savings shall be estimated from the baseline established in subsection (2) of this section as follows:
 - (a) The estimated average reduction of inmates due to mandatory reentry supervision as required by KRS 439.3406 multiplied by the appropriate average cost as determined in subsection (3)(a) of this section;
 - (b) The estimated average reduction of inmates due to accelerated parole hearings as required by KRS 439.340 multiplied by the appropriate average cost as determined in subsection (3)(a) of this section;
 - (c) The estimated average increase of parolees due to paragraphs (a) and (b) of this subsection multiplied by the average cost as determined in subsection (3)(b) of this section; and
 - (d) The estimated average reduction of parolees due to parole credit for good behavior as provided in KRS 439.345 multiplied by the average cost as determined in subsection (3)(b) of this section.
- (5) The following amounts shall be allocated or distributed from the estimated amount of savings that would otherwise remain in the general fund:
 - (a) Twenty-five percent (25%) shall be distributed to the local corrections assistance fund established by KRS 441.207;
 - (b) Fifty percent (50%) shall be distributed for the following purposes:
 1. To the department to provide or to contract for the provision of substance abuse treatment in county jails, regional jails, or other local detention centers that employ evidence-based practices in behavioral health treatment or medically assisted treatment for nonstate inmates with opiate addiction or other substance abuse disorders;
 2. For KY-ASAP programs operating under KRS Chapter 15A in county jails or in facilities under the supervision of county jails that employ evidence-based behavioral health treatment or medically assisted treatment for inmates with opiate addiction or other substance abuse disorders;
 3. To KY-ASAP to provide supplemental grant funding to community mental health centers for the purpose of offering additional substance abuse treatment resources through programs that employ evidence-based behavioral health treatment or medically assisted treatment;
 4. To KY-ASAP to address neonatal abstinence syndrome by providing supplemental grant funding to community substance abuse treatment providers to offer residential treatment services to pregnant women through programs that employ evidence-based behavioral health treatment or medically assisted treatment;
 5. To provide supplemental funding for traditional KY-ASAP substance abuse programming under KRS Chapter 15A;
 6. *To the department for the purchase of FDA-approved medication-assisted treatment products as a component of evidence-based treatment for inmates with opioid dependence, opioid use disorder, or other substance abuse disorders, for use in substance abuse treatment programs operated or supervised by the department. In purchasing such FDA-approved products, the*

~~department shall consider products and treatments that may minimize the risk of diversion~~~~[To the department for the purchase of an FDA approved extended release treatment for the prevention of relapse to opiate dependence with a minimum of fourteen (14) days' effectiveness with an opioid antagonist function for use as a component of evidence based medically assisted treatment for inmates with opiate addiction or substance abuse disorders participating in a substance abuse treatment program operated or supervised by the department];~~

7. To the Department of Public Advocacy to provide supplemental funding to the Social Worker Program for the purpose of creating additional social worker positions to develop individualized alternative sentencing plans; and
 8. To the Prosecutors Advisory Council to enhance the use of rocket docket prosecutions in controlled substance cases; and
- (c) In enacting the budget for the department and the judicial branch, beginning in the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the General Assembly shall:
1. Determine the estimated amount necessary for reinvestment in:
 - a. Expanded treatment programs and expanded probation and parole services provided by or through the department; and
 - b. Additional pretrial services and drug court case specialists provided by or through the Administrative Office of the Courts; and
 2. Shall allocate and appropriate sufficient amounts to fully fund these reinvestment programs.
- (6) The amount of savings shall be estimated each year of the 2012-2014 fiscal biennium, and for each year of each fiscal biennium thereafter, as specified in subsection (4) of this section.
- (7) (a) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the department shall estimate the amount of savings measured under this section and shall request the amount necessary to distribute or allocate those savings as provided in subsection (5) of this section.
- (b) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the judicial branch shall request the amount necessary to distribute or allocate those savings as provided in subsection (5) of this section.

➔Section 3. The following KRS sections are repealed:

222.037 Pilot projects for services to prevent smoking and substance abuse during pregnancy -- Funding.

222.212 Continuing effectiveness of administrative regulations in existence on July 15, 1994.

➔Section 4. Whereas substance use disorder is a pervasive and growing problem in the Commonwealth of Kentucky, and a delay in the implementation of this Act would severely hinder the growth in the number of quality and effective substance use disorder treatment and recovery services and programs available to Kentuckians in need, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 2, 2018.

CHAPTER 62

(SB 204)

AN ACT relating to income tax checkoff programs and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *Effective for taxable years beginning on or after January 1, 2019, any taxpayer required to file a return under KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the Kentucky CASA network fund created by Section 2 of this Act may designate an amount, not to exceed the amount of*

the refund, to be paid to the fund. A designation made under this section shall not affect the income tax liability of the taxpayer, but it shall reduce the income tax refund by the amount designated.

- (2) *The tax refund designation authorized by this section shall be printed on the face of the Kentucky individual income tax form.*
- (3) *The instructions accompanying the individual income tax return shall include a description of the Kentucky CASA network fund and the purposes for which the funds from the income tax checkoff may be used.*
- (4) *The department shall, by July 1, 2020, and by July 1 of each year thereafter, transfer the funds designated by taxpayers under this section to the Kentucky CASA network fund created by Section 2 of this Act.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky CASA network fund is hereby created as a separate trust fund. The fund shall be administered by the Justice and Public Safety Cabinet.*
- (2) *The fund shall receive amounts collected from the income tax checkoff established in Section 1 of this Act, and any other proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of the fund. Moneys in the fund shall be used to support CASA programs in Kentucky.*
- (3) *Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (4) *Any interest earned on moneys in the fund shall become a part of the trust fund and shall not lapse.*
- (5) *Moneys in the fund are appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.*

Signed by Governor April 2, 2018.

CHAPTER 63

(HB 81)

AN ACT relating to disabled parking placards.

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

➔Section 1. KRS 189.456 is amended to read as follows:

- (1) On the application of any person who has a severe visual, audio, or physical impairment, including partial paralysis, lower limb amputation, chronic heart condition, emphysema, arthritis, rheumatism, or other debilitating condition which limits or impairs one's personal mobility or ability to walk, the county clerk in the county of the person's residence shall issue the person with a disability an accessible parking placard. In addition, any agency or organization which transports persons with a disability as a part of the service provided by that agency or organization shall receive an accessible parking placard upon application to the county clerk for each vehicle used in the transportation of persons with a disability. The accessible parking placard issued shall be a two (2) sided hanger style placard and shall on each side bear the international symbol of access adopted by Rehabilitation International in 1969. ~~One (1) side of the placard shall bear~~ the date of expiration of the placard, a seal or other identification of the Kentucky Transportation Cabinet, and shall contain the accessible parking placard identification number and other information the Transportation Cabinet may by regulation require. The international symbol of access shall be at least three (3) inches in height, be centered on the placard and in a white color on a blue shield. Any information contained on the placard shall be written in indelible ink or inscribed in other permanent fashion so as to prevent tampering with or the changing of information contained on the placard.
- (2) The county clerk shall issue an *applicant one (1) accessible parking placard at no cost. Except as outlined in subsection (7) of this section, an applicant may obtain one (1) duplicate placard. A fee of ten dollars (\$10) shall be assessed for an initial or renewal duplicate placard, of which eight dollars (\$8) shall be forwarded to the road fund and two dollars (\$2) shall be retained by the clerk. The placard* ~~at no charge that~~ shall be valid for a period of ~~six (6) two (2)~~ years and ~~which~~ may be ~~twice~~ renewed *an unlimited number of times* ~~for a period of two (2) years, without any fee being charged to the applicant. A placard shall expire in~~

the applicant's birth month and may be renewed up to twelve (12) months prior to its expiration date. Upon renewal, a receipt and decal shall be issued that both contain the placard number, placard expiration date, and other information required by the Transportation Cabinet. The decal shall be affixed to the existing placard. ~~The application shall be made on a form prepared by the Transportation Cabinet. Placards shall be printed at cabinet expense, and distributed to~~ *The county clerk of each county* ~~who~~ *shall keep a record of applications filed and placards issued. Placards issued under this section shall be issued in the name of the applicant and shall not be tied to the applicant's motor vehicle or a motor vehicle used to transport the applicant.*

- (3) For every person seeking an *initial* accessible parking placard *or renewal of a placard issued prior to the effective date of this Act*, proof of the disability shall be required by:
 - (a) Evidence that the individual has a license plate for a person with a disability as provided by KRS 186.041 or 186.042;
 - (b) The county clerk issuing the permit ascertaining that *the applicant meets the criteria established by the Transportation Cabinet for determining that* the applicant is ~~obviously~~ disabled; or
 - (c) A statement from a licensed physician, *physician assistant*, chiropractor, or advanced practice registered nurse that the applicant is a person whose mobility, flexibility, coordination, respiration, or perceptiveness is significantly reduced by a permanent disability to that person's arms, legs, lungs, heart, ears, or eyes. *The statement shall be on a form prescribed by the Transportation Cabinet and shall not be dated more than sixty (60) days prior to the date of application.*
- (4)
 - (a) *A parent or guardian of a disabled minor may apply for a placard on behalf of the disabled person by submitting the form identified in subsection (3) of this section.*
 - (b) *A parent or guardian of a disabled adult may apply for a placard on behalf of the disabled person by submitting the form identified in subsection (3) of this section and a power of attorney or proof of guardianship for the disabled person.*
- (5)~~(4)~~ *The Transportation Cabinet may allow the county clerk to issue an accessible disabled placard to an organization transporting disabled individuals.* For every agency or organization seeking an accessible parking placard for a person with a disability, application for the placard shall include:
 - (a) Name of the agency or organization requesting use of an accessible parking placard;
 - (b) Number of vehicles being used in the transportation of persons with a disability; and
 - (c) A statement from the director of the agency or organization verifying the need for the parking placard.
- ~~(6)~~~~(5)~~ The accessible parking placard shall, when the vehicle is parked in a parking space identified as accessible to a person with a disability, be displayed so that *the expiration date* ~~it~~ may be viewed from the front ~~and rear~~ of the vehicle by hanging the placard from the front windshield rear view mirror. When there is no rear view mirror, the placard shall be displayed on the dashboard *so that the expiration date may be viewed.*
- ~~(7)~~~~(6)~~ A person who has ~~not~~ been issued a license plate for a person with a disability under the provisions of KRS 186.041 or 186.042 *shall only be issued one (1) parking placard under this section at no cost and shall not be issued a duplicate placard* ~~may be issued a second parking placard at no charge~~.
- ~~(8)~~~~(7)~~ A person with a disability who has been issued a parking placard pursuant to this section may make application for a replacement placard by swearing in an affidavit that the original placard has been lost, stolen, or destroyed. The replacement parking placard shall be issued at *a fee of ten dollars (\$10), of which eight dollars (\$8) shall be forwarded to the road fund and two dollars (\$2) shall be retained by the clerk. If a damaged placard is returned to the clerk, a replacement shall be issued at no cost* ~~no charge by the county clerk~~.
- ~~(9)~~~~(8)~~ The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement or administer this section, *including but not limited to the designing of required forms, establishing placard issuance criteria for county clerks, and establishing criteria for placard issuance for organizations.*

➔Section 2. KRS 189.458 is amended to read as follows:

- (1) Upon application of any person who has a severe temporary visual, audio, or physical impairment, including partial paralysis, heart condition, emphysema, arthritis, rheumatism, or other debilitating condition which

limits or impairs one's personal mobility or ability to walk as defined in KRS 186.042, the county clerk in the county of the person's residence shall issue the person with a disability a temporary accessible parking placard.

- (2) The accessible parking placard issued shall be a two (2) sided hanger style placard and shall on each side bear the international symbol of access adopted by Rehabilitation International in 1969. ~~One (1) side of the placard shall bear~~ the date of expiration of the placard, a seal or other identification of the Kentucky Transportation Cabinet, and shall contain the accessible parking placard identification number and other information the Transportation Cabinet may by administrative regulation require. The international symbol of access shall be at least three (3) inches in height, be centered on the placard and in a white color on a red shield.
- (3) (a) A temporary accessible parking placard shall be issued at no charge by the county clerk, and the placard shall be valid for a period of not more than three (3) months.
 (b) *A person with a disability who has been issued a temporary parking placard pursuant to this section may make application for a replacement placard by swearing in an affidavit that the original placard has been lost, stolen, or destroyed. A replacement parking placard shall be issued at a fee of ten dollars (\$10), of which eight dollars (\$8) shall be forwarded to the road fund and two dollars (\$2) shall be retained by the clerk. Replacement placards issued under this paragraph shall retain the same expiration date as the initial temporary placard. If a damaged placard is returned to the clerk, a replacement shall be issued at no cost.*
- (4) The application shall be made on a form prepared by the Transportation Cabinet. *The placards shall be printed at cabinet expense. ~~and distributed to~~ The county clerk of each county ~~who~~ shall keep a record of applications filed and placards issued. Placards issued under this section shall be issued in the name of the applicant and shall not be tied to the applicant's motor vehicle or a motor vehicle used to transport the applicant.*
- (5) For every person seeking a temporary accessible parking placard, proof of the disability shall be required by:
 - (a) *The county clerk ascertaining that the applicant meets the criteria established by the Transportation Cabinet for placard issuance; or*
 - (b) *A statement from a licensed physician, physician assistant, physical therapist, occupational therapist, chiropractor, or advanced practice registered nurse that the applicant is a person whose mobility, flexibility, coordination, respiration, or perceptiveness is significantly reduced by a temporary disability to that person's arms, legs, lungs, heart, ears, or eyes. The statement shall be submitted on a form prescribed by the cabinet and shall not be dated more than sixty (60) days prior to the date of application.*
- (6) The temporary accessible parking placard, when the vehicle is parked in a parking space designated as accessible to and for the use of a person with a disability, shall be displayed so that *the expiration date* ~~it~~ may be viewed from the front ~~and rear~~ of the vehicle by hanging it from the front windshield rear view mirror. When there is no rear view mirror, the placard shall be displayed on the dashboard *so that the expiration date may be viewed.*
- (7) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement or administer this section, *including but not limited to the designing of required forms and establishing placard issuance criteria for county clerks.*

➔Section 3. KRS 186.042 is amended to read as follows:

- (1) For the purposes of this section, "persons with disabilities which limit or impair the ability to walk" means persons who ~~as determined by a licensed physician~~:
 - (a) Cannot walk two hundred (200) feet or sixty-one (61) meters without stopping to rest;
 - (b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistant device;
 - (c) Are restricted by lung disease to the extent that the person's forced respiratory and expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;
 - (d) Use portable oxygen;

- (e) Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or
 - (f) Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.
- (2) On the application of any person with disabilities which limit or impair the ability to walk, who has lost the use of an arm or both arms, or who is blind, the Transportation Cabinet shall issue the person with a disability an accessible parking registration plate or renewal decal designating the vehicle licensed as being owned by or leased by a person with a disability. The license plate or renewal decal may be issued for a passenger car as set forth in KRS 186.050(1), for a motorcycle as set forth in KRS 186.050(2), or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear the international symbol of access adopted by Rehabilitation International in 1969, reading from left to right and shall be followed by numbers or letters the cabinet finds expedient. The cabinet shall not issue the registration plates so designated to any person other than a person with a disability as described above. The fee for a disabled license plate shall be as established in KRS 186.162.
- (3) The application for a license plate for a person with a disability shall be made on a form prepared by the Transportation Cabinet. For every person seeking this accessible parking license plate, proof of the disability shall be required by:
- (a) The county clerk issuing the license plate ascertaining that the applicant is obviously disabled as described in this section; or
 - (b) A statement from a licensed physician, *physician assistant*, *chiropractor*, or advanced practice registered nurse that the applicant is a person with disabilities which limit or impair the ability to walk, a person who has lost the use of an arm, or any person who is blind.
- (4) When a motor vehicle bearing plates issued to a person with a disability as prescribed in this section is being operated by or for the benefit of the person with a disability, who is in the motor vehicle when the motor vehicle is being operated, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except if local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane; if the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours; or if the motor vehicle is parked in such a manner as to clearly be a traffic hazard.
- (5) Registration under this section shall expire July 31.

➔Section 4. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.459 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (6)~~[(4)]~~ of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both, unless the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury, in which case the person shall be guilty of a Class D felony. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.
- (2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.2713 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
- (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

- (c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.2713, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (d) On or after July 1, 2020:
 - 1. Any person who violates the weight provisions of KRS 189.2714 shall be subject to the penalties outlined in paragraph (a) of this subsection; and
 - 2. Any person who violates any provision of KRS 189.2714 for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (e) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
- (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.
- (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (3) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.
- (17)
 - (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
 - (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (25) Any person who violates the provisions of KRS 189.125(3)(b) shall not be issued a uniform citation, but shall instead receive a courtesy warning up until July 1, 2009. For a violation on or after July 1, 2009, the person shall be fined thirty dollars (\$30). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs. A person who has not been previously charged with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting the requirements of KRS 189.125. Upon presentation of sufficient proof of the acquisition, the charge shall be dismissed and no fees or costs shall be imposed.
- (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.020 and 534.060.
- (28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

- (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
 - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.
- (30) ~~On or after January 1, 2011,~~ Any person who violates KRS 189.292 or 189.294 shall be fined twenty-five dollars (\$25) for the first offense and fifty dollars (\$50) for each subsequent offense.

➔Section 5. The Transportation Cabinet shall, within 30 days of the effective date of this Act, provide, to holders of permanent disability placards, notice of changes to the renewal process.

Signed by Governor April 2, 2018.

CHAPTER 64

(SB 182)

AN ACT relating to all-terrain vehicles.

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

➔Section 1. KRS 189.515 is amended to read as follows:

- (1) *As used in this section, "federal all-terrain vehicle standards" means the all-terrain vehicle standards set forth by the American National Standards Institute/Specialty Vehicle Institute of America and incorporated by reference in 16 C.F.R. sec. 1420.3, to the extent those standards are applicable.*
- (2) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (7)~~((6))~~ of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.
- (3)~~((2))~~ A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.
- (4)~~((3))~~ A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.
- (5)~~((4))~~ Except for vehicles authorized to operate on a public highway, a person sixteen (16) years of age or older operating an all-terrain vehicle on public property shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:
 - (a) Farm or agriculture related activities;
 - (b) Mining or mining exploration activities;
 - (c) Logging activities;
 - (d) Any other business, commercial, or industrial activity;
 - (e) Use of that vehicle on private property; or
 - (f) The crossing of a public roadway with a posted speed limit of fifty-five (55) miles per hour or less. The crossing of a public roadway outlined in this paragraph shall be in compliance with subsection (6)(a) of this section.

- (6)(5) (a) *A parent or legal guardian of a minor who is under the age of six (6) shall not knowingly allow that person to operate an all-terrain vehicle.*
- (b) A person under the age of sixteen (16) years shall not operate ~~an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate~~ an all-terrain vehicle except under direct parental supervision.
- ~~[(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.]~~
- (c) A person under the age of sixteen (16) years, when operating or riding as a passenger on an all-terrain vehicle, shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion.
- (d) *A parent or guardian of a minor who is under the age of sixteen (16), or who does not possess an instruction permit, an intermediate license, or an operator's license, shall not knowingly allow that person to carry a passenger while operating an all-terrain vehicle.*
- (e) *A parent or guardian of a minor under the age of sixteen (16) shall not knowingly allow that person to operate an all-terrain vehicle in violation of the age restriction warning label affixed by the manufacturer as required by the federal all-terrain vehicle standards.*
- (7)(6) (a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.
- (b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.
- (c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that are prohibited may be operated.
- (d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.
- (e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.
- (f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.
- (g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.
- (h) *It shall be unlawful for a person to remove from an all-terrain vehicle the manufacturer age restriction warning label required by the federal all-terrain vehicle standards.*

Signed by Governor April 2, 2018.

CHAPTER 65

(SB 142)

AN ACT relating to training for telecommunicators.

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

➔Section 1. KRS 15.550 is amended to read as follows:

- (1) The basic course offered by the training program shall consist of forty (40) hours of instruction or training and shall consist of subjects appropriate for the basic training of law enforcement telecommunicators in the

technique of emergency services communications. The Kentucky Law Enforcement Council shall approve all training curriculum and instructions.

- (2) *As a portion of the basic course offered, all telecommunicators who receive or dispatch emergency medical service calls shall be trained in telephone cardiopulmonary resuscitation (T-CPR) utilizing nationally recognized emergency cardiovascular care guidelines. At a minimum this training shall incorporate recognition protocols for out-of-hospital cardiac arrest, compression-only CPR instructions for callers, and continuing education as appropriate.*
- (3) *Online training modules based on nationally recognized guidelines that at a minimum incorporate recognition protocols for out of hospital cardiac arrest and compression-only CPR shall be acceptable for telecommunicators who have not been through the training academies or who are not otherwise certified in these protocols.*

➔SECTION 2. A NEW SECTION OF KRS 15.530 TO 15.590 IS CREATED TO READ AS FOLLOWS:

- (1) *A PSAP as defined by KRS 65.750 or an agency receiving or dispatching emergency medical service calls may enter into a reciprocal agreement with another PSAP, dedicated phone line, or call center to provide telephone cardiopulmonary resuscitation (T-CPR) utilizing nationally recognized emergency cardiovascular care guidelines, provided that the PSAP or other agency that accepts the call has telecommunicators trained in T-CPR in accordance with subsection (2) or (3) of Section 1 of this Act.*
- (2) *Any employee of a PSAP that answers calls for emergency medical conditions shall, in the appropriate circumstances, provide telephonic assistance in administering CPR directly or transfer calls to a dedicated phone line, call center, or other PSAP with which the transferring PSAP has a reciprocal agreement.*

Signed by Governor April 2, 2018.

CHAPTER 66

(SB 140)

AN ACT relating to notifications.

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

➔Section 1. KRS 158.186 is amended to read as follows:

Before September 15 of each year, the commissioner of education~~[Department of Education]~~ shall:

- (1) *E-mail electronic copies or send ~~electronic or~~ paper copies of KRS 158.183 and 158.195 directly to each local school board, school-based decision making council, and certified employee in Kentucky~~on an annual basis~~; and*
- (2) *Certify compliance with this section to the Interim Joint Committee on Education by submitting to the committee:*
 - (a) *A copy of all materials, other than the statutes, sent as part of the notice; and*
 - (b) *The dates materials were sent.*

Signed by Governor April 2, 2018.

CHAPTER 67

(SB 130)

AN ACT relating to campus crime reporting.

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

➔Section 1. KRS 164.948 is amended to read as follows:

As used in KRS 164.9481, 164.9483, and 164.9485, unless the context requires otherwise:

- (1) "Campus" *has the same meaning as in 20 U.S.C. sec. 1092(f)(6)(A)(ii) as amended;*~~means all property owned, managed, or controlled by an institution of postsecondary education including but not limited to academic buildings; student housing and recreational facilities; residential facilities operated by any officially recognized student organization; all sections of public property such as streets, sidewalks, and parking facilities immediately contiguous to campus buildings; and remote facilities leased for use as classroom space or student living.~~
- (2) "Campus security authority" means campus police, security officers, and any official at a postsecondary education institution who has significant responsibility for student and campus activities, including student discipline, student housing, student judicial affairs, and student life administration. Professional mental health, pastoral, and other licensed counselors when functioning in that capacity are not considered campus security authorities;~~[-]~~
- (3) "Crime" *means any crime listed in 20 U.S.C. sec. 1092(f)(1)(F) as amended;*~~means murder, manslaughter, reckless homicide, assault, menacing, wanton endangerment, terroristic threatening, stalking, forcible or nonforcible sex offenses, burglary, criminal damage to property, arson, theft, motor vehicle theft, robbery, weapons possession, and criminal attempt for any of the aforementioned crimes, and arrests for drug related violations and liquor law violations.~~
- (4) "Immediately" means before the last fire unit has left the scene in order for the state fire marshal to have the opportunity to speak with fire unit personnel before they leave the scene, but no later than two (2) hours following the time the fire or threat of fire is discovered. In the event of a minor fire to which the local fire officials are not called or do not respond, "immediately" means no later than one (1) hour following the discovery of the fire;~~[-]~~
- (5) *"Noncampus building or property" has the same meaning as in 20 U.S.C. sec. 1092(f)(6)(A)(iii) as amended;*
- (6) "Postsecondary education institution" means any Kentucky public four (4) year institution or two (2) year community college or technical college that grants a postsecondary education credential, and any private college or university that is licensed by the Council on Postsecondary Education under KRS 164.945 to 164.947; ~~and~~~~[-]~~
- (7) *"Public property" has the same meaning as in 20 U.S.C. sec. 1092(f)(6)(A)(iv) as amended.*

➔Section 2. KRS 164.9485 is amended to read as follows:

Effective September 1, 2000, and each year thereafter, each postsecondary education institution shall submit to the Council on Postsecondary Education a statement of current policies concerning campus safety and security including, but not limited to:

- (1) The enforcement authority of security personnel, including their working relationship with state and local police agencies;
- (2) A description of programs designed to inform students and employees about the campus safety and security procedures and practices, how to report crimes, and how to prevent crimes; and
- (3) Statistics concerning the occurrence of crimes on campus during the most recent calendar year. The statistical data shall be reported by the number of occurrences based on:
 - (a) Location, broken down in the following classifications:
 1. Total number on campus;~~[-]~~
 - a. ~~Subtotal of occurrences indicating specifically those in dormitories or other residential facilities;~~
 - b. ~~Subtotal of occurrences indicating specifically those in or on noncampus buildings or property; and~~
 2. On public property; ~~and~~~~[-]~~ ~~contiguous to the campus~~
 3. *Noncampus buildings and property.*
 - (b) Category of crime committed:

1. As defined in KRS 164.948; and
2. By category of prejudice, *as described in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. sec. 1092(f)(F)(ii) as amended* ~~any crime reported to local police agencies or to a campus security authority, that manifests evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability~~.

Signed by Governor April 2, 2018.

CHAPTER 68

(SB 108)

AN ACT relating to child support enforcement of health care coverage.

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

➔Section 1. KRS 403.211 is amended to read as follows:

- (1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.
- (2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.
- (3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:
 - (a) A child's extraordinary medical or dental needs;
 - (b) A child's extraordinary educational, job training, or special needs;
 - (c) Either parent's own extraordinary needs, such as medical expenses;
 - (d) The independent financial resources, if any, of the child or children;
 - (e) Combined monthly adjusted parental gross income in excess of the Kentucky child support guidelines;
 - (f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and
 - (g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.
- (4) "Extraordinary" as used in this section shall be determined by the court in its discretion.
- (5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

- (6) The court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.
- (7) (a) *Pursuant to 45 C.F.R. sec. 303.31(a)(2), for the purposes of this section, "health care coverage" includes fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to a dependent child.* If ~~{private} health care {insurance} coverage~~ is reasonable in cost and accessible to either parent at the time the request for coverage is made, the court shall order the parent to obtain or maintain coverage, and the court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, the cost of health care ~~{insurance} coverage~~ for the child, in addition to the support ordered under the child support guidelines.
- (b) A parent, who has one hundred percent (100%) of the combined monthly adjusted parental gross income, shall be entitled to a reduction in gross income of the entire amount of premiums incurred and paid.
- (c) The court shall order the cost of health care **coverage** of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:
1. A judicial directive designating which parent shall have financial responsibility for providing health care **coverage** for the dependent child, which shall include but not be limited to ~~{private} health care {insurance} coverage~~, payments of necessary health care deductibles or copayments;
 2. If appropriate, cash medical support. "Cash medical support" means an amount to be paid toward the cost of health care ~~{insurance} coverage~~ ~~that is provided by a public entity, including the Kentucky Children's Health Insurance Program or the Kentucky Medicaid program, or another parent or person with whom the child resides through employment or otherwise~~, fixed payments for ongoing medical costs, extraordinary medical expenses, or any combination thereof; and
 3. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.
- (d) If ~~{private} health care {insurance} coverage~~ is not reasonable in cost and accessible at the time the request for the coverage is made, the court order shall provide for cash medical support until ~~{private} health care {insurance} coverage~~ becomes reasonable in cost and accessible.
- (8) (a) For purposes of this section, "reasonable in cost" means that the cost of coverage to the responsible parent does not exceed five percent (5%) of his or her gross income. The five percent (5%) standard shall apply to the cost of adding the child to an existing policy, the difference in the cost between a single and a family policy, or the cost of acquiring a separate policy to cover the child. If the parties agree or the court finds good cause exists, the court may order **health care**~~{medical}~~ coverage in excess of five percent (5%) of the parent's gross income.
- (b) For purposes of this section, "accessible" means that there are providers who meet the health care needs of the child and who are located no more than sixty (60) minutes or sixty (60) miles from the child's primary residence, except that nothing shall prohibit use of a provider located more than sixty (60) minutes or sixty (60) miles from the child's primary residence.
- (9) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their combined monthly adjusted parental gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars (\$100) per child per calendar year. "Extraordinary medical expenses" includes but is not limited to the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.
- (10) The court order shall include the Social Security numbers, provided in accordance with KRS 403.135, of all parties subject to a support order.

- (11) In any case administered by the Cabinet for Health and Family Services, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Health and Family Services may, upon application, enroll the child.
- (12) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by KRS 205.175.
- (13) In the case in which a parent is obligated to provide health care ~~insurance~~ coverage, and changes employment, and the new employer provides health care ~~insurance~~ coverage, the Cabinet for Health and Family Services shall transfer notice of the provision for coverage for the child to the employer, which shall operate to enroll this child in the obligated parent's health plan, unless the obligated parent contests the notice as specified by KRS Chapter 13B.
- (14) Notwithstanding any other provision of this section, any wage or income shall not be exempt from attachment or assignment for the payment of current child support or owed or to-be-owed child support.
- (15) A payment of money received by a child as a result of a parental disability shall be credited against the child support obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.

Signed by Governor April 2, 2018.

CHAPTER 69

(SB 138)

AN ACT relating to reorganization.

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

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

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

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

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.

- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

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

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

2. Division of Technical and Administrative Support.
3. Division of Mine Permits.
4. Division of Mine Reclamation and Enforcement.
5. Division of Abandoned Mine Lands.
6. Division of Oil and Gas.
7. Division of Mine Safety.
8. Division of Forestry.
9. Division of Conservation.
10. Office of the Reclamation Guaranty Fund.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Kentucky Claims Commission.
 - (c) Kentucky Boxing and Wrestling Commission.
 - (d) Kentucky Horse Racing Commission.
 1. Office of Executive Director.
 - a. Division of Pari-mutuel Wagering and Compliance.
 - b. Division of Stewards.
 - c. Division of Licensing.
 - d. Division of Enforcement.
 - e. Division of Incentives and Development.
 - f. Division of Veterinary Services.
 - (e) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.

- (f) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (g) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (h) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (i) Department of Insurance.
 - 1. Division of Insurance Product Regulation.
 - 2. Division of Administrative Services.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Division of Consumer Protection.
 - 7. Division of Kentucky Access.
- (j) Department of Professional Licensing.
 - 1. Real Estate Authority.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - a. Workplace Standards Legal Division.
 - b. Workers' Claims Legal Division.
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.
 - 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 - 1. Division of Apprenticeship.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of Wages and Hours.

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

1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Finance and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
 - (t) Office of Legislative and Regulatory Affairs.
- (9) Finance and Administration Cabinet:
- (a) Office of the Secretary.
 - (b) Office of the Inspector General.
 - (c) Office of Legislative and Intergovernmental Affairs.
 - (d) Office of General Counsel.
 - (e) Office of the Controller.

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

2. Division of Administrative Services.
 3. Division of Engineering, Infrastructure, and Technology.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Marketing.
- (d) Kentucky Horse Park.
1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
 2. Office of Government Relations and Administration.
 3. Office of Film and Tourism Development.
 4. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) ~~Office of Capital Plaza Operations.~~
- ~~(l)~~ Office of Arts and Cultural Heritage.
- ~~(l)~~~~(m)~~ Kentucky African-American Heritage Commission.
- ~~(m)~~~~(n)~~ Kentucky Foundation for the Arts.
- ~~(n)~~~~(o)~~ Kentucky Humanities Council.

(o)~~(p)~~ Kentucky Heritage Council.

(p)~~(q)~~ Kentucky Arts Council.

(q)~~(r)~~ Kentucky Historical Society.

1. Division of Museums.
2. Division of Oral History and Educational Outreach.
3. Division of Research and Publications.
4. Division of Administration.

(r)~~(s)~~ Kentucky Center for the Arts.

1. Division of Governor's School for the Arts.

(s)~~(t)~~ Kentucky Artisans Center at Berea.

(t)~~(u)~~ Northern Kentucky Convention Center.

(u)~~(v)~~ Eastern Kentucky Exposition Center.

(11) Personnel Cabinet:

- (a) Office of the Secretary.
- (b) Department of Human Resources Administration.
- (c) Office of Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Governmental Services Center.
- (h) Department of Employee Insurance.
- (i) Office of Diversity, Equality, and Training.
- (j) Office of Public Affairs.

III. Other departments headed by appointed officers:

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

➔Section 2. KRS 45.001 is amended to read as follows:

- (1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.
- (2) The committee shall meet at least semiannually at a time and place announced by the chairperson.
- (3) The membership of the committee shall consist of the following members or their designees:

- (a) The mayor of the city of Frankfort;
- (b) The county judge/executive of Franklin County;
- (c) The secretary of the Finance and Administration Cabinet;
- (d) The secretary of the Tourism, Arts and Heritage Cabinet;
- (e) The secretary of the Education and Workforce Development Cabinet;
- (f) The commissioner of the Kentucky Department of Tourism;
- (g) ~~The executive director of the Office of Capital Plaza Operations;~~
- ~~(h)~~ The chairman of the Frankfort/Franklin County Tourist and Convention Commission;
- ~~(h)~~~~(i)~~ A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and
- ~~(i)~~~~(j)~~ A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

- (4) The Governor shall appoint the chairperson of the committee.
- (5) Members of the committee shall serve without compensation.
- (6) The ***Finance and Administration Cabinet*** ~~Office of Capital Plaza Operations~~ shall provide administrative support to the committee.

➔Section 3. KRS 148.522 is amended to read as follows:

- (1) The Tourism, Arts and Heritage Cabinet shall consist of the Office of the Secretary, the Office of Legal Affairs, the Office of Finance, the Office of Government Relations and Administration, the Office of Human Resources, the Office of Public Affairs and Constituent Services, the Office of Arts and Cultural Heritage, the Office of Creative Services, ~~the Office of Capital Plaza Operations,~~ the Office of Film and Tourism Development, the Kentucky Department of Tourism, the Kentucky Department of Parks, the Tourism Development Finance Authority, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.
- (2) The Tourism, Arts and Heritage Cabinet shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.
- (3) The Office of Legal Affairs shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet, and shall be directly responsible to the secretary.
- (4) The Kentucky Department of Tourism shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.
- (5) The Divisions of Tourism Services, Marketing and Administration, and Communications and Promotions are created within the Kentucky Department of Tourism. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.

➔Section 4. The following KRS section is repealed:

42.018 Office of Capital Plaza Operations.

➔Section 5. The General Assembly confirms Executive Order 2017-0888, dated December 13, 2017, which abolishes the Office of Capital Plaza Operations of the Tourism, Arts and Heritage Cabinet, to the extent that the executive order is not otherwise confirmed or superseded by this Act.

Signed by Governor April 2, 2018.

AN ACT relating to natural gas pipeline safety.

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

➔Section 1. KRS 278.992 is amended to read as follows:

- (1) Any person who violates any minimum safety standard adopted by the United States Department of Transportation pursuant to the federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq., ~~as amended~~~~or any amendments thereto~~, or any regulation adopted and filed pursuant to KRS Chapter 13A by the Public Service Commission governing the safety of pipeline facilities or the transportation of gas as those terms are defined in the Natural Gas Pipeline Safety Act, shall be subject to a civil penalty to be assessed by the Public Service Commission not to exceed the maximum civil penalty as contained in 49 C.F.R. sec. 190.223, as ~~amended~~~~of December 31, 2014~~, for a violation of any provision of 49 U.S.C. secs. 60101 et seq., or any regulation or order issued thereunder, for each violation for each day that the violation persists. Any civil penalty assessed for a violation may be compromised by the commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of the violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the Commonwealth of Kentucky to the person charged or may be recovered in a civil action in the Franklin Circuit Court.
- (2) Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by the Natural Gas Pipeline Safety Act or any regulation or order issued pursuant to it shall, upon conviction, be subject for each offense to a fine of not more than five thousand dollars (\$5,000), imprisonment for a term not to exceed one (1) year, or both.

➔Section 2. KRS 367.4903 is amended to read as follows:

As used in KRS 367.4903 to 367.4917:

- (1) "Underground facility" means an underground line or system used for producing, storing, conveying, transmitting, or distributing telecommunications, electricity, gas, petroleum, petroleum products, cable television, hazardous liquids, water, steam, or sewerage, including storm drainage;
- (2) "Damage" means weakening of structural or lateral support or penetration of a facility coating, housing, or other protective device. It also means the partial or complete dislocation or severance of underground facilities or rendering any underground facility permanently inaccessible by the placement of a permanent structure having one (1) or more stories;
- (3) "Demolition" means any operation by which a structure or mass of material is wrecked, razed, moved, or removed by means of mechanized equipment, or discharge of explosives;
- (4) "Excavator" means any entity or individual, other than those exempted by KRS 367.4915, engaged in excavation, demolition, or timber harvesting using mechanized equipment;
- (5) "Operator" means any entity or individual owning or operating underground facilities to serve the public;
- (6) "Excavation" means any activity that results in the movement, placement, probing, boring, or removal of earth, rock, or other material in or on the ground by the use of any tools or equipment, by the discharge of explosives, or by the harvesting of timber using mechanized equipment. Forms of excavating include but are not limited to auguring, backfilling, digging, ditching, drilling, driving, grading, piling, pulling-in, ripping, scraping, trenching, and tunneling. Driving wooden stakes by use of hand tools to a depth of six (6) inches or less below existing grade shall not constitute excavation;
- (7) "Emergency" means there exists substantial likelihood that loss of life or property, the inability to restore interrupted utility service, an imminent danger to health or the environment, or the blockage of public transportation facilities will result before procedures required under KRS 367.4909 to 367.4913 can be completed;
- (8) "Protection notification center" means an operator-provided notification center through which an excavator can contact the operator to enable the operator to provide the excavator with the approximate location of underground facilities;
- (9) "Kentucky Contact Center" means Kentucky Underground Protection, Inc., organized as a nonprofit corporation and a multimember protection notification center providing a single telephone contact number and

designated by the Kentucky Public Service Commission to be the sole recipient of 811 dialed calls through which an excavator may contact all Kentucky Contact Center members and all affected operators may receive information to enable them to provide the excavator with the approximate location of underground facilities;

- (10) "Routine road maintenance" means preservation, including road repairs and resurfacing, and the replacement of signs, posts, and guardrails at the exact same location when no additional penetration of existing grade is necessary, but does not include road construction, installation of signs, posts, and guardrails, or any activity that requires penetration of existing grade;
- (11) "Approximate location," when referring to an underground facility, means:
 - (a) For underground metallic facilities and underground nonmetallic facilities with metallic tracer wire, a distance not to exceed the combined width of the underground facility plus eighteen (18) inches measured from the outer edge of each side of the underground facility; or
 - (b) For nonmetallic facilities without metallic tracer wire, the underground facility shall be located as accurately as possible from field location records and shall require notification from the operator of the inability to accurately locate the facility;
- (12) "Working day" means a twenty-four (24) hour period commencing from the time of receipt of the notification by the Kentucky Contact Center except Saturday, Sunday, and holidays established by federal or state statute;
- (13) "Nonintrusive excavating" means excavation using hand tools or equipment that uses air or water pressure as the direct means to break up soil for removal by hand tools or vacuum excavation;
- (14) "Mechanized equipment" means mechanical power equipment, including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows, skidders, and yarders;
- (15) "Normal excavation locate request" means a notification made to a protection notification center where a request for locating utility facilities is processed;
- (16) "Emergency locate request" means a notification made to a protection notification center by an excavator to alert facility owners or operators of the need to begin immediate excavation in response to an emergency;
- (17) "Design information request" means a notification made to a protection notification center by a person providing professional services and making a request in preparation for bidding, preconstruction engineering, or other advance planning efforts. A design information request may not be used for excavation purposes;~~and~~
- (18) "Large project" means an area of excavation occurring on or after July 1, 2016, measuring more than two thousand (2,000) feet in length. Multiple excavation notifications in an area may be considered together in determining if the excavations are part of a large project; **and**

(19) "Commission" means the Kentucky Public Service Commission.

➔Section 3. KRS 367.4909 is amended to read as follows:

- (1) Each operator shall provide protection notification center access to excavators.
- (2) Voluntary operator membership in the Kentucky Contact Center shall satisfy the requirement of subsection (1) of this section.
- (3) Each operator member of the Kentucky Contact Center shall provide and update as needed to the Kentucky Contact Center the general location of its underground facilities, the operator identity and business address, and emergency notification telephone numbers.
- (4) ***Each operator shall report to the commission excavation damage to an underground facility used in the transportation of gas or hazardous liquid within thirty (30) calendar days of being informed of the damage. Each report of excavation damage shall be made by electronic mail or as otherwise prescribed by the commission.***
- ~~(5)~~~~(4)~~ An operator shall respond to facility locate requests as follows:
 - (a) To a normal excavation locate request within two (2) working days after receiving notification from an excavator, excluding large projects.
 - (b) To an emergency locate request as quickly as possible but not to exceed forty-eight (48) hours after receiving notification from an excavator;

- (c) To a design information request within ten (10) working days after receiving notification from the person making the request; and
 - (d) To a large project request within five (5) working days from the later of receiving notification from an excavator or the scheduled excavation start date for that location.
- ~~(6)~~~~(5)~~ An operator shall, upon receiving an emergency locate request or a normal excavation locate request:
- (a) Inform the excavator of the approximate location and description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition;
 - (b) Inform the excavator of any other information that would assist in locating and avoiding contact with or damage to underground facilities;
 - (c) Unless permanent facility markers are provided, provide temporary markings to inform the excavator of the ownership and approximate location of the underground facility; and
 - (d) Notify the requesting party if underground facilities are not in conflict with the excavation or demolition.
- ~~(7)~~~~(6)~~ Upon receiving a design information request, an operator shall contact the person making the request within the time period specified in subsection ~~(5)~~~~(4)~~ of this section. The operator shall:
- (a) Designate with temporary underground facility markers the location of all underground facilities owned by the operator within the area of the design information request as defined in KRS 367.4903;
 - (b) Provide to the person making the design information request a description of all underground facilities owned by the operator in the area of the design information request and the location of the facilities, which may include drawings marked with a scale, dimensions, and reference points for underground utilities already built in the area or other facility records that are maintained by the operator; or
 - (c) Allow the person making the design information request or an authorized person to inspect the drawings or other records for all underground facilities with the proposed area of excavation at a location that is acceptable to the operator.
- ~~(8)~~~~(7)~~ An operator may reject a design information request based upon security considerations or if producing the information will place the operator at a competitive disadvantage, pending the operator obtaining additional information confirming the legitimacy of the notice. The operator shall notify the person making the design information request and may request additional information.
- ~~(9)~~~~(8)~~ Temporary underground facility markers shall consist of paint, chalk, flags, stakes, or any combination thereof and shall conform to the following standards of the American Public Works Association uniform color code:
- | | | |
|-----|--|-------------------------------|
| (a) | Electric power distribution and transmission | Safety Red |
| (b) | Municipal electric systems | Safety Red |
| (c) | Gas distribution and transmission | High visibility safety yellow |
| (d) | Oil distribution and transmission | High visibility safety yellow |
| (e) | Dangerous materials, product lines | High visibility safety yellow |
| (f) | Telecommunication systems and cable television | Safety alert orange |
| (g) | Temporary survey markings | Safety pink |
| (h) | Police and fire communications | Safety alert orange |
| (i) | Water systems | Safety precaution blue |
| (j) | Sewer and storm drainage systems | Safety green |
| (k) | Proposed excavation or construction boundaries | White |
| (l) | Reclaimed water, slurry, and irrigation facilities | Purple |
- ~~(10)~~~~(9)~~ If extraordinary circumstances exist, an operator shall notify the excavator of the operator's inability to comply with this section. Extraordinary circumstances include extreme weather conditions, force majeure, disasters, or civil unrest that make timely response difficult or impossible.

~~(11)(10)~~ All underground facilities installed after January 1, 2013, shall include a means to accurately identify and locate the underground facilities from the surface. This subsection does not apply to the repair of existing facilities.

➔Section 4. KRS 367.4911 is amended to read as follows:

- (1)
 - (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full working days nor more than ten (10) full working days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.
 - (b) An excavator may commence work before the two (2) full working days provided for in paragraph (a) of this subsection have elapsed if all affected operators have notified the person that the location of all the affected operators' facilities have been marked or that they have no facilities in the area of the proposed excavation, demolition, or timber harvesting.
- (2) Locate requests are valid for twenty-one (21) calendar days from the day of the initial request.
- (3) Each excavator shall provide each applicable protection notification center with adequate information regarding:
 - (a) The name of the individual making the notification;
 - (b) The excavator's name, address, and a telephone number;
 - (c) The excavation or demolition site location or locations, each of which shall not exceed two thousand (2,000) feet in length unless the excavator and operator agree to a larger area, the city or community, county and street address, including the nearest cross street;
 - (d) The type and extent of excavation or demolition to be performed;
 - (e) A contact name and telephone number of the person responsible for the work to be performed.
- (4) If more than one (1) excavator will operate at the same site, each excavator shall notify the protection notification centers individually. Notification by an excavator will serve as notification for any of that excavator's employees. Failure by an excavator to notify the protection notification center does not relieve individual employees of responsibility.
- (5) The excavator shall inform and provide to excavation or demolition site employees:
 - (a) The underground facility location provided by each operator;
 - (b) Any related safety information provided by each operator; and
 - (c) The locate request identification number assigned by each protection notification center.
- (6) The excavator shall protect and preserve temporary underground facility markers until the scheduled excavation or demolition is completed.
- (7) If, after the two (2) day period provided by KRS 367.4909(5)~~(4)~~(a), the excavator finds evidence of an unmarked underground facility at the site, he shall immediately notify the protection notification center.
- (8) The excavator shall contact the protection notification center to request remarking two (2) working days in advance of the expiration of each twenty-one (21) day period while excavation or demolition continues or if:
 - (a) The markings of any underground facility have been removed or are no longer visible; or
 - (b) The excavator has changed the work plan or location previously filed.
- (9)
 - (a) Each excavator who conducts or is responsible for any excavation or demolition that results in underground facility damage shall cease excavation or demolition activities and notify all affected operators of the location and nature of the underground facility damage.
 - (b) If the underground facility damage causes concern for public or workplace safety, the excavator shall notify appropriate public safety agencies of the location and nature of the safety concern.
 - (c) If the underground facility damage results in the escape of any flammable, toxic, or corrosive gas or liquid, the excavator shall cease excavation or demolition activities and immediately report to the appropriate authorities by calling the 911 emergency telephone number.

- (10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.
- (11) Upon request by an operator or when the proposed excavation location cannot be accurately identified, an excavator shall mark the boundaries of the location to be excavated using the procedure set forth in KRS 367.4909~~(9)~~~~(8)~~(k). After marking the boundaries, the excavator shall contact the protection notification center or centers. The requirements of KRS 367.4909~~(5)~~~~(4)~~ to (10) are reestablished upon the operator receiving notification of this marking from the protection notification center or centers. This marking shall not alter, or relieve the excavator from complying with, the requirements of KRS 367.4905 to 367.4917.

➔Section 5. KRS 367.4917 is amended to read as follows:

- (1) An excavator who fails to comply with any provision of KRS 367.4911, or an operator who fails to comply with any provision of KRS 367.4909, shall be guilty of endangering underground facilities and may be subject to a fine of two hundred and fifty dollars (\$250) for the first offense, no more than one thousand dollars (\$1,000) for the second offense within one (1) year, and no more than three thousand dollars (\$3,000) for the third and any subsequent offense.
- (2) A protection notification center that fails to comply with any provision of KRS 367.4913 shall be subject to a fine of one thousand dollars (\$1,000) for each offense.
- (3) A person that knowingly provides false notice to a utility notification center of an emergency as defined in KRS 367.4903 shall be subject to a fine of one thousand dollars (\$1,000) for each offense.
- (4) Any person who violates any provision of the Underground Facility Damage Prevention Act of 1994, KRS 367.4901 to 367.4917, that involves damage to a facility containing any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material shall be subject to a fine not to exceed one thousand dollars (\$1,000) for each offense. The penalties of this subsection are not in conflict with and are in addition to civil damages for personal injury or property damage.
- (5)
 - (a) ***Except as provided in subsection (6) of this section,*** all fines recovered for a violation of this section shall be paid to the general fund of the state, county, city, or fire protection agency which issued the citation.
 - (b) In the event that more than one (1) government agency was involved, the court shall direct an apportionment of the fines.
 - (c) Failure to comply with the provisions of the Underground Facility Damage Prevention Act of 1994, KRS 367.4901 to 367.4917, may be determined at the conclusion of an investigation and shall be based on evidence available to state, county, or city officials, law enforcement, or fire protection agencies which issue the citation.
- (6) ***The commission shall have statewide authority to enforce and assess civil penalties provided for in this section and to seek injunctive relief for any violation that results in damage to an underground facility used to transport gas or hazardous liquid subject to the federal pipeline safety laws, 49 U.S.C. secs. 60101 et seq. Once the commission initiates an investigation or undertakes an enforcement action against a person for an alleged violation, no other state, county, city, or fire protection agency shall initiate or continue any enforcement action against the person for the same alleged violation. Any action to recover penalties assessed pursuant to this subsection shall be brought in the Franklin Circuit Court. All penalties recovered by the commission shall be paid into the State Treasury and credited to the account of the commission.***
- (7) ***The commission may promulgate administrative regulations in accordance with KRS Chapter 13A to enforce the Underground Facility Damage Prevention Act of 1994. The commission shall exercise its authority under the Underground Facility Damage Prevention Act of 1994 in accordance with the rules and procedures set forth in KRS Chapter 278 and all applicable administrative regulations promulgated by the commission.***

Signed by Governor April 2, 2018.

(SB 152)

AN ACT relating to teacher compensation.

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

➔Section 1. KRS 157.390 is amended to read as follows:

- (1) For purposes of the state teacher salary schedule, teachers shall be placed on the schedule based on certification rank as established by the Education Professional Standards Board under KRS 161.1211 and by their years of experience as follows:
 1. Zero (0) to three (3) years;
 2. Four (4) to nine (9) years;
 3. Ten (10) to fourteen (14) years;
 4. Fifteen (15) to nineteen (19) years; and
 5. Twenty (20) or more years.
- (2) The rank and experience of the teacher shall be determined on September 15 of each year.
- (3) The amount to be included in the base funding level for capital outlay shall be determined by multiplying the average daily attendance by the amounts set forth in the biennial budget.
- (4) The amount to be included in the public school fund of each district for transportation shall be determined in accordance with the provisions of KRS 157.370.
- (5) The total amount of money distributable to each district from the public school fund shall include the base funding per pupil in average daily attendance, an amount for at-risk students, an amount for the types and numbers of students with disabilities, an amount for students served in home and hospital settings, and the allotments in subsections (3) and (4) of this section, less the amount of local tax revenues generated for school purposes, up to a maximum equivalent local rate of thirty cents (\$0.30) as defined by KRS 157.615(6).
- (6) A classroom teacher or administrator may be provided additional compensation, funds for instructional and program materials, and other related costs for serving as a classroom mentor, teaching partner, or professional development leader in core discipline areas including reading, and other subject areas as appropriate to other education professionals in a state approved program or state approved activities. The Kentucky Department of Education shall administer the funds appropriated for these purposes. The Kentucky Board of Education shall promulgate administrative regulations to define the guidelines for programs and activities that qualify for funds including the application and approval process, the individual participant requirements, the amount of compensation, the timelines, and reporting requirements. The board shall solicit recommendations from the Education Professional Standards Board and staff of the Kentucky Department of Education in developing its administrative regulations.
- (7) *A school district may provide monetary compensation in addition to that provided through the single salary schedule, as defined in KRS 157.320, to all classroom teachers employed in a school that is identified by the Kentucky Department of Education as being in targeted or comprehensive support and improvement status as described in KRS 160.346.*

Signed by Governor April 2, 2018.

CHAPTER 72

(SB 131)

AN ACT relating to personnel board hearings.

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

➔Section 1. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
 - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
 - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
 - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
 - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
 - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
 - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
 - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
 - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
 - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
 - (a) Finance and Administration Cabinet
 1. Higher Education Assistance Authority
 - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
 - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
 2. Department of Revenue
 - a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
 - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205
 - (b) Cabinet for Health and Family Services
 1. Office of Health Policy
 - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
 - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
 2. Department for Community Based Services
 - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
 3. Department for Income Support

- a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
- 4. Department for Medicaid Services
 - a. Administrative appeal hearings following an external independent third-party review of a Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to the provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization, conducted under authority of KRS 205.646
- (c) Justice and Public Safety Cabinet
 - 1. Department of Kentucky State Police
 - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
 - 2. Department of Corrections
 - a. Parole Board hearings conducted under authority of KRS Chapter 439
 - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
 - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
 - 3. Department of Juvenile Justice
 - a. Supervised placement revocation hearings conducted under KRS Chapter 635
- (d) Energy and Environment Cabinet
 - 1. Department for Natural Resources
 - a. Surface mining hearings conducted under authority of KRS Chapter 350
 - 2. Department for Environmental Protection
 - a. Wild River hearings conducted under authority of KRS Chapter 146
 - b. Water resources hearings conducted under authority of KRS Chapter 151
 - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
 - d. Environmental protection hearings conducted under authority of KRS Chapter 224
 - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
 - 3. Public Service Commission
 - a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) Labor Cabinet
 - 1. Department of Workers' Claims
 - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
 - 2. Kentucky Occupational Safety and Health Review Commission
 - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
- (f) Public Protection Cabinet
 - 1. Kentucky Claims Commission
 - a. Liability hearings conducted under authority of KRS 49.020(1) and 49.040 to 49.180
- (g) Education and Workforce Development Cabinet
 - 1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (h) Secretary of State

1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (i) State universities and colleges
 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
 3. Campus residency hearings conducted under authority of KRS Chapter 164
 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
 - (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
 - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
 - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.
- (7) *The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings held under KRS 18A.095.*

Signed by Governor April 2, 2018.

CHAPTER 73

(HCR 35)

A CONCURRENT RESOLUTION urging Congress to amend the federal Controlled Substances Act to remove hemp from the definition of marijuana.

WHEREAS, for several years, hemp, a non-narcotic low-concentration THC variety of the cannabis plant, has been listed along with marijuana under the federal Controlled Substances Act; and

WHEREAS, in 2014, Congress enacted a provision of law, now codified as 7 U.S.C. sec. 5940, authorizing state departments of agriculture and institutions of higher education to grow or cultivate industrial hemp in

jurisdictions where it is allowed by state law for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and

WHEREAS, since 2014, the Kentucky Department of Agriculture has conducted a hemp research pilot program that is widely regarded as a model for other states to emulate; and

WHEREAS, Kentucky's farmers planted 33 acres of hemp in 2014, a total of 922 acres in 2015, some 2,300 acres in 2016, and 3,200 acres in 2017; and

WHEREAS, from 2014 to 2017, the number of farmers in Kentucky growing hemp increased from 20 to 204, with even more interest in hemp production anticipated in 2018; and

WHEREAS, from 2014 to 2017, the number of hemp processors increased from nine to 49; and

WHEREAS, in 2017, the General Assembly amended Kentucky's Controlled Substances Act to exclude many hemp materials and products from the Commonwealth's definition of illegal marijuana; and

WHEREAS, processors in Kentucky and other states have proven that hemp is an economically viable agricultural commodity that can be used to make a wide variety of useful products, including products for human consumption; and

WHEREAS, removing hemp from the federal definition of marijuana would allow Kentucky's community of hemp farmers and processors to take full advantage of this promising agricultural crop;

NOW, THEREFORE,

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

➔Section 1. The General Assembly of the Commonwealth of Kentucky urges the United States Congress to take action by enacting legislation that:

(1) Encourages large-scale commercial cultivation of hemp by removing it from the list of controlled substances under the federal Controlled Substances Act;

(2) Prevents the federal Drug Enforcement Administration (DEA) from sending DEA agents onto farms and other sites where hemp is being grown, stored, and processed;

(3) Creates legal protections for depository institutions that provide financial services to legitimate hemp businesses; and

(4) Instructs the federal Food and Drug Administration to accelerate clinical trials and other research on the health effects of cannabidiol (CBD) and other cannabinoids found in hemp.

➔Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution and notification of its adoption to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the Minority Leader of the United States House of Representatives, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate, and each member of Kentucky's delegation to the United States Congress.

Signed by Governor April 2, 2018.

CHAPTER 74

(SB 37)

AN ACT relating to operator's licenses for certain inmates and declaring an emergency.

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

➔Section 1. KRS 186.417 (Effective January 1, 2019) is amended to read as follows:

- (1) The Transportation Cabinet shall issue to any felony offender, if the felony offender is eligible, released from the Kentucky Department of Corrections or a Federal Bureau of Prisons facility located in Kentucky on home incarceration, parole, completed service of sentence, shock probation, or pardon, a personal identification card

or, if the felony offender is eligible, an operator's license. An offender who wishes to obtain a personal identification card or operator's license shall provide proper documentation to comply with the provisions of this section.

- (2) Proper documentation under subsection (1) of this section shall consist of:
 - (a) The offender's certificate of birth;
 - (b) A copy of the offender's resident record card and parole certificate or notice of discharge;
 - (c) A photograph of the offender, printed on plastic card or paper; and
 - (d) A release letter that shall contain the offender's:
 1. Full legal name, subject to the information available to the Kentucky Department of Corrections or a Federal Bureau of Prisons facility located in Kentucky;
 2. Discharge/release date;
 3. Signature;
 4. Social Security number;
 5. Date of birth;
 6. Present Kentucky address where he or she resides; and
 7. Physical description.
- (3) The Transportation Cabinet shall issue to any felony offender, if the felony offender is eligible, probated or conditionally discharged by the court and under the supervision of the Division of Probation and Parole or the United States Probation Office, a personal identification card or, if the felony offender is eligible, an operator's license. An offender who wishes to obtain a personal identification card or operator's license shall provide proper documentation to comply with the provisions of this section.
- (4) Proper documentation under subsection (3) of this section shall consist of:
 - (a) The offender's certificate of birth;
 - (b) The offender's sentencing order;
 - (c) A photograph of the offender, printed on plastic card or paper; and
 - (d) A notarized release letter, signed by the supervising officer verifying the offender's status on supervision, that shall contain the offender's:
 1. Full legal name, subject to the information available to the Division of Probation and Parole or the United States Probation Office;
 2. Signature;
 3. Social Security number;
 4. Date of birth;
 5. Present Kentucky address where he or she resides; and
 6. Physical description.
- (5) The offender shall present the documentation identified in subsection (2) or (4) of this section to the circuit clerk within thirty (30) calendar days from the date of the release letter and shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531.
- (6) ***The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish procedures for current inmates in state and federal prisons, who are deemed eligible by prison officials, to be issued operator's licenses to engage in work release activities or reentry initiatives. The administrative regulations shall address, at a minimum:***
 - (a) ***The information required for application, which shall include all information in paragraph (b) of this subsection which is germane to a current inmate. For purposes of this paragraph, the facility in which the inmate is housed shall be considered the inmate's residence;***

- (b) *Required documentation from the Department of Corrections or the Federal Bureau of Prisons that the inmate meets the security criteria to be eligible for work outside of the facility;*
 - (c) *Procedures for license issuance; and*
 - (d) *Restrictions on use of the license, including a requirement that the inmate shall surrender the license to prison officials when the inmate is not engaged in work outside the facility.*
- (7) Except as provided in subsection ~~(8)(7)~~ of this section, the circuit clerk shall process applications for operator's licenses and personal identification cards under this section in the same manner as in KRS 186.412 and 186.4122.
- ~~(8)(7)~~ The Transportation Cabinet may enter into an agreement with the Kentucky Department of Corrections, the United States Probation Office, or the Federal Bureau of Prisons to use a mobile unit to begin the issuance process in this section.

➔Section 2. KRS 186.412 (Effective until January 1, 2019) is amended to read as follows:

- (1)
 - (a) A person who was under the age of eighteen (18) years at the time of application for an instruction permit and is eighteen (18) years of age or older may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days and has completed a driver training program under KRS 186.410(4).
 - (b) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days.
 - (c) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.
- (2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. Except as provided in subsection (8)(b) and (c) of this section, the application form shall require the person's:
 - (a) Full legal name and signature;
 - (b) Date of birth;
 - (c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;
 - (d) Sex;
 - (e) Present Kentucky resident address, exclusive of a post office box address alone;
 - (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;
 - (g) A brief physical description of the applicant;
 - (h) A statement if the person has previously been licensed as an operator in another state;
 - (i) Proof of the person's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and
 - (j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.
- (3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services:
 - (a) An I-551 card with a photograph of the applicant; or
 - (b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Homeland Security, United States Bureau of Citizenship and

Immigration Services has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----, Employment authorized."

- (4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
 - (a) The application form shall be accompanied by the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.
 - (b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.
 - (c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.
 - (d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.
 - (e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
 - (f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

- (6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.
- (7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.
- (b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.
- (c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card. The personal identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).
- (d) A personal identification card shall be valid for a period of four (4) years from the date of issuance, except that if the personal identification card is issued to a person who does not have a fixed, permanent address, then the personal identification card shall be valid for one (1) year from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.
- (e) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (8) (a) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.
- (b) Upon receipt of proper documentation provided by the Department of Corrections *or the Federal Bureau of Prisons*, the circuit clerk of the county in which a released felony offender resides *or the Transportation Cabinet* shall issue to any felony offender, if the felony offender is eligible, released from the Department of Corrections *or the Federal Bureau of Prisons* on home incarceration, parole, completed service of sentence, shock probation, or pardon, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:
1. The offender's certificate of birth~~[-except for offenders born outside this state];~~
 2. A copy of the offender's resident record card and parole certificate or notice of discharge;
 3. A photograph of the offender, printed on plastic card or paper; and
 4. A release letter that shall contain the offender's:
 - a. Full legal name, subject to the information available to the Department of Corrections *or the Federal Bureau of Prisons*;

- b. Discharge/release date;
- c. Signature;
- d. Social Security number;
- e. Date of birth;
- f. Present Kentucky address where he or she resides; and
- g. Physical description.

The offender shall present this documentation to the circuit clerk *or the Transportation Cabinet* within thirty (30) calendar days from the date of the release letter and shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

- (c) Upon receipt of proper documentation provided by the Department of Corrections *or the United States Probation Office*, the circuit clerk of the county in which a felony offender resides *or the Transportation Cabinet* shall issue to any felony offender, if the felony offender is eligible, probated or conditionally discharged by the court and under the supervision of the Division of Probation and Parole *or the United States Probation Office*, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:

- 1. The offender's certificate of birth~~[-, except for offenders born outside this state];~~
- 2. The offender's sentencing order;
- 3. A photograph of the offender, printed on plastic card or paper; and
- 4. A notarized release letter, signed by the supervising officer verifying the offender's status on supervision, that shall contain the offender's:
 - a. Full legal name, subject to the information available to the Division of Probation and Parole *or the United States Probation Office*;
 - b. Signature;
 - c. Social Security number;
 - d. Date of birth;
 - e. Present Kentucky address where he or she resides; and
 - f. Physical description.

The offender shall present this documentation to the circuit clerk *or the Transportation Cabinet* within thirty (30) calendar days from the date of the notarized release letter. The offender shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

- (d) *The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish procedures for current inmates in state and federal prisons, who are deemed eligible by prison officials, to be issued operator's licenses to engage in work release activities or reentry initiatives. Operator's licenses and personal identification cards issued under this paragraph and paragraphs (b) and (c) of this subsection may be issued directly by the Transportation Cabinet instead of the circuit clerk. The administrative regulations shall address, at a minimum:*

- 1. *The information required for application, which shall include all information in paragraph (b) of this subsection which is germane to a current inmate. For purposes of this paragraph, the facility in which the inmate is housed shall be considered the inmate's residence;*
- 2. *Required documentation from the Department of Corrections or the Federal Bureau of Prisons that the inmate meets the security criteria to be eligible for work outside of the facility;*
- 3. *Procedures for license issuance; and*
- 4. *Restrictions on use of the license, including a requirement that the inmate shall surrender the license to prison officials when the inmate is not engaged in work outside the facility.*

- (9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Department of Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar (\$4) fee for the child identification card. Two dollars (\$2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars (\$2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars (\$4), with two dollars (\$2) of the fee going to the cabinet and two dollars (\$2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.
- (10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."
- (11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."
- (12) (a) If a citizen of the Commonwealth has been serving in the United States military stationed or assigned to a base or other location outside the boundaries of the Commonwealth and has allowed his or her operator's license to expire, he or she shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his or her license without having to take a written test or road test.
- (b) A citizen who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.
- (c) A citizen who meets the criteria in paragraph (a) of this subsection and who does not renew his or her license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.
- (d) If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.
- (13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:
- (a) Blood type;
- (b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and
- (c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.1917.
- (14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of two dollars (\$2) paid to the circuit clerk, two (2) medical insignia decals that

may be affixed to the driver's side of the front windshield of a motor vehicle and to the driver's side of the rear window of a motor vehicle.

- (15) An operator's license pursuant to this section shall be designated a Class D license.
- (16) A person shall not have more than one (1) license.
- (17) Upon marriage, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:
 - (a) Use her husband's last name;
 - (b) Retain her maiden name;
 - (c) Use her maiden name hyphenated with her husband's last name;
 - (d) Use her maiden name as a middle name and her husband's last name as her last name; or
 - (e) In the case of a previous marriage, retain that husband's last name.
- (18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.
- (19) Any person who served in the active Armed Forces of the United States, including the Coast Guard of the United States, and was released, separated, discharged, or retired therefrom under conditions other than dishonorable, may, at the time of initial application or application for renewal or duplicate, request that an operator's license or a personal identification card issued under this section bear the word "veteran" on the face or the back of the license or personal identification card. The designation shall be in a style and format considered appropriate by the Transportation Cabinet. Prior to obtaining a designation requested under this subsection, the applicant shall present the circuit clerk with an original or copy of his or her DD-214 or DD-2 form as proof of veteran status. The circuit clerk shall not be liable for fraudulent or misread DD-214 or DD-2 forms presented.

➔Section 3. Whereas, the reintegration of offenders into society through these programs should not be delayed any longer than necessary, an emergency is declared to exist, and this Section 2 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 2, 2018.

CHAPTER 75

(HB 290)

AN ACT relating to interscholastic athletics.

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

➔Section 1. KRS 156.070 is amended to read as follows:

- (1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.
- (2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.
 - (a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a

sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.

- (b) Beginning with the 2003-2004 school year, the state board shall require any agency or organization designated by the state board to manage interscholastic athletics to adopt bylaws that establish as members of the agency's or organization's board of control one (1) representative of nonpublic member schools who is elected by the nonpublic school members of the agency or organization from regions one (1) through eight (8) and one (1) representative of nonpublic member schools who is elected by the nonpublic member schools of the agency or organization from regions nine (9) through sixteen (16). The nonpublic school representatives on the board of control shall not be from classification A1 or D1 schools. Following initial election of these nonpublic school representatives to the agency's or organization's board of control, terms of the nonpublic school representatives shall be staggered so that only one (1) nonpublic school member is elected in each even-numbered year.
- (c) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws that prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.
- (d)
 1. *The state board or any agency designated by the state board to manage interscholastic athletics shall allow a member school's team or students to play against students of a non-member at-home private school, or a team of students from non-member at-home private schools, if the non-member at-home private schools and students comply with this subsection.*
 2. *A non-member at-home private school's team and students shall comply with the rules for student athletes, including rules concerning:*
 - a. *Age;*
 - b. *School semesters;*
 - c. *Scholarships;*
 - d. *Physical exams;*
 - e. *Foreign student eligibility; and*
 - f. *Amateurs.*
 3. *A coach of a non-member at-home private school's team shall comply with the rules concerning certification of member school coaches as required by the state board or any agency designated by the state board to manage interscholastic athletics.*
 4. *This subsection shall not allow a non-member at-home private school's team to participate in a sanctioned:*
 - a. *Conference;*
 - b. *Conference tournament;*
 - c. *District tournament;*
 - d. *Regional tournament; or*
 - e. *State tournament or event.*
 5. *This subsection does not allow eligibility for a recognition, award, or championship sponsored by the state board or any agency designated by the state board to manage interscholastic athletics.*
 6. *A non-member at-home private school's team or students may participate in interscholastic athletics permitted, offered, or sponsored by the state board or any agency designated by the state board to manage interscholastic athletics.*

- (e) Every local board of education shall require an annual medical examination performed and signed by a physician, physician assistant, advanced practice registered nurse, or chiropractor, if performed within the professional's scope of practice, for each student seeking eligibility to participate in any school athletic activity or sport. The Kentucky Board of Education or any organization or agency designated by the state board to manage interscholastic athletics shall not promulgate administrative regulations or adopt any policies or bylaws that are contrary to the provisions of this paragraph.
- ~~(f)(e)~~ Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only. An exception to the provisions of this paragraph shall be made, and the student shall be eligible for high school athletics in Kentucky if the student:
1. Qualified for exceptional children services and had an individual education program developed by an admissions and release committee (ARC) while the student was enrolled in the primary school program;
 2. Was retained in the primary school program because of an ARC committee recommendation; and
 3. Has not completed four (4) consecutive years or eight (8) consecutive semesters of eligibility following initial promotion from grade eight (8) to grade nine (9).
- ~~(g)(f)~~
1. The state board or any agency designated by the state board to manage interscholastic athletics shall promulgate administrative regulations that permit a school district to employ or assign nonteaching or noncertified personnel or personnel without postsecondary education credit hours to serve in a coaching position. The administrative regulations shall give preference to the hiring or assignment of certified personnel in coaching positions.
 2. A person employed in a coaching position shall be a high school graduate and at least twenty-one (21) years of age and shall submit to a criminal background check in accordance with KRS 160.380.
 3. The administrative regulations shall specify post-hire requirements for persons employed in coaching positions.
 4. The regulations shall permit a predetermined number of hours of professional development training approved by the state board or its designated agency to be used in lieu of postsecondary education credit hour requirements.
 5. A local school board may specify post-hire requirements for personnel employed in coaching positions in addition to those specified in subparagraph 3. of this paragraph.
- (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.
- (b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the

Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

- (c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.
- (4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be enclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.
- (5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

Signed by Governor April 2, 2018.

CHAPTER 76

(HB 289)

AN ACT relating to disproportionate share hospital payments and making an appropriation therefor.

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

➔Section 1. KRS 205.639 is amended to read as follows:

As used in KRS 205.639 to **205.640**~~[205.641]~~, unless the context otherwise requires:

- (1) "Acute care hospital" means an acute care hospital~~[-, critical access hospital, or comprehensive physical rehabilitation hospital]~~ licensed under KRS ~~[Chapter 216B.0425]~~ **except that it shall not include a critical access hospital, private psychiatric hospital, or state mental hospital;**
- (2) **"Comprehensive physical rehabilitation hospital" means an in-state freestanding rehabilitation hospital that also meets the criteria for an inpatient rehabilitation facility under 42 C.F.R. sec. 412.29**~~["Private psychiatric hospital" means a psychiatric hospital licensed under KRS Chapter 216B that is not a state mental hospital];~~

- (3) *"Critical access hospital" means a hospital licensed as a critical access hospital under KRS 216.380*~~["State mental hospital" means a psychiatric hospital licensed under KRS Chapter 216B that is owned and operated by the Commonwealth];~~ ~~and~~
- (4) *"Department" means the Department for Medicaid Services;*~~["University hospital" means a state university teaching hospital, owned and operated by either the University of Kentucky School of Medicine or the University of Louisville School of Medicine]~~
- (5) *"Essential hospital" means an acute care hospital that qualifies as a Medicaid inpatient utilization rate (MIUR) hospital, a low-income utilization rate (LIUR) hospital, or a critical access hospital;*
- (6) *"Final disproportionate share hospital payment" or "final DSH payment" means the state fiscal year DSH payment for a hospital determined by the department using the hospital's examined Medicaid DSH survey and which is reconciled to the hospital's initial state fiscal year DSH payment and limited to the hospital's hospital-specific DSH limit;*
- (7) *"Hospital-specific disproportionate share hospital limit" or "Hospital-specific DSH limit" means the limitation required under 42 U.S.C. sec. 1396r-4(g) and corresponding regulations that a DSH payment may not exceed a hospital's uncompensated costs of providing inpatient hospital and outpatient hospital services to Medicaid-eligible individuals and uninsured individuals;*
- (8) *"Initial disproportionate share hospital payment" or "Initial DSH payment" means the state fiscal year DSH payment made to a hospital by the department using data, subject to limited review, from the hospital's Medicaid DSH survey or proxy information and which is subject to reconciliation when the hospital's Medicaid DSH survey is examined;*
- (9) *"Long-term acute hospital" means an in-state hospital that is certified as a long-term care hospital under 42 U.S.C. sec. 1395ww(d)(1)(B)(iv);*
- (10) *"Low-income utilization rate" or "LIUR" means, for a hospital, the sum of:*
 - (a) *A fraction expressed as a percentage, rounded to the nearest hundredth:*
 - 1. *The numerator of which is the sum for a period of the total Medicaid revenues paid to the hospital for patient services, regardless of whether the services were furnished on a fee-for-service basis or through a managed care entity, and the amount of cash subsidies for patient services received directly from state and local governments; and*
 - 2. *The denominator of which is the total amount of revenues of the hospital for patient services, including the amount of cash subsidies, in the period; and*
 - (b) *A fraction expressed as a percentage rounded to the nearest hundredth:*
 - 1. *The numerator of which is the total amount of the hospital's charges for inpatient hospital services which are attributable to charity care in a period, less the portion of any cash subsidies described in subparagraph 1. of paragraph (a) of this section in the period reasonably attributable to inpatient hospital services, and which shall not include contractual allowances and discounts other than for indigent patients not eligible for medical assistance; and*
 - 2. *The denominator of which is the total amount of the hospital's charges for inpatient hospital services in the hospital in the period;*
- (11) *"Low income Utilization rate hospital" or "LIUR hospital" means an acute care hospital whose low-income utilization rate exceeds one hundred twenty percent (120%) of the state average low-income utilization rate rounded to the nearest hundredth for all acute care hospitals, critical access hospitals, private psychiatric hospitals, and university hospitals combined, as reported on the hospitals' Medicaid DSH surveys;*
- (12) *"Medicaid disproportionate share hospital survey" or "Medicaid DSH survey" means the report required to be submitted by each hospital receiving Medicaid disproportionate share payments pursuant to 42 C.F.R. sec. 447.299;*
- (13) *"Medicaid uncompensated care" means the same as in 42 C.F.R. sec. 447.299(c)(11);*
- (14) *"Medicaid inpatient utilization rate" or "MIUR" means, for a hospital, a fraction expressed as a percentage rounded to the nearest hundredth for which the numerator shall be the number of in-state and*

out-of-state inpatient Medicaid days where Medicaid is the primary payor, covered under fee-for-service and managed care, and for which the denominator shall be the total number of inpatient days for the hospital as reported on the hospital's Medicaid DSH survey. However, for a pediatric teaching hospital, as defined in KRS 205.565, the calculation shall exclude from the numerator and the denominator the hospital's inpatient Medicaid days utilized in the calculation of an intensity operating allowance (IOA) payment. Supplemental information will be requested to support the IOA days included in the Medicaid DSH survey submission;

- (15) *"Medicaid inpatient utilization rate hospital" or "MIUR hospital" means an acute care hospital whose MIUR equals or exceeds one (1) standard deviation above the mean MIUR rounded to the nearest hundredth for all acute care hospitals, critical access hospitals, private psychiatric hospitals, and university hospitals combined, as determined from the hospitals' Medicaid DSH surveys;*
- (16) *"Paid claims listing" or "PCL" means a report created for a hospital by the department, or by a Medicaid managed care organization using the same format as the department, with claim level payment information prescribed by the department in sufficient detail to permit reconciliation with the hospital's internal data for each Medicaid recipient or managed care enrollee having a discharge date or service date, as applicable, for inpatient or outpatient services within a hospital's fiscal year;*
- (17) *"Private psychiatric hospital" means a psychiatric hospital licensed under KRS Chapter 216B that is not a state mental hospital and is not a distinct part unit of a licensed acute care hospital or operated under the same provider number as a licensed acute care hospital;*
- (18) *"State mental hospital" means a psychiatric hospital licensed under KRS Chapter 216B that is owned or operated by the Commonwealth;*
- (19) *"Total uncompensated care costs" means the same as in 42 C.F.R. sec. 447.299(c)(16);*
- (20) *"Uninsured uncompensated care costs" means the same as in 42 C.F.R. sec. 447.299(c)(15); and*
- (21) *"University hospital" means a state university teaching hospital, owned or operated by either the University of Kentucky School of Medicine or the University of Louisville School of Medicine.*

➔Section 2. KRS 205.640 is amended to read as follows:

- (1) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.
- (2) The Medical Assistance Revolving Trust Fund (MART) shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.363 shall be deposited in the State Treasury and transferred on a quarterly basis to the Department for Medicaid Services for use as specified in this section. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.363 may be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.
- (3) (a) Beginning in state fiscal year 2000-2001 and continuing annually thereafter, provider tax revenues and state and federal matching funds shall be used to fund the disproportionate share program established by administrative regulations promulgated by the Cabinet for Health and Family Services. Disproportionate share funds shall be divided into three (3) pools for distribution as follows:
 - 1. *An acute care pool, composed of critical access hospitals, comprehensive physical rehabilitation hospitals, long-term acute hospitals, and acute care hospitals that do not qualify as a university hospital, shall receive an initial and a final allocation determined by subtracting from the state's total DSH allotment:*
 - a. *The allocation required in subparagraph 2. of this paragraph for the psychiatric pool; and*
 - b. *The initial or final, as applicable, DSH payments to be made to hospitals in the university pool in subparagraph 3. of this paragraph*~~Forty three and ninety two hundredths percent (43.92%) of the total disproportionate share funds shall be allocated to acute care hospitals;~~

2. *A psychiatric pool, composed of private psychiatric hospitals and state mental hospitals, shall receive the percentage allowable by federal law pursuant to 42 U.S.C. sec. 1396r-4(h), up to nineteen and eight-hundredths percent (19.08%) of the total disproportionate share funds, with the allocation between each respective group of hospitals established by the biennial budget; except, however, that the allocation to state mental hospitals shall not exceed ninety-two and three-tenths percent (92.3%) of the total allotment to the psychiatric pool. If there are remaining funds within the psychiatric pool after all private psychiatric hospitals reach their hospital-specific DSH limit, state mental hospitals may exceed the ninety-two and three-tenths percent (92.3%) limit but may not exceed their hospital-specific DSH limit*~~[Thirty-seven percent (37%) of the total disproportionate share funds shall be allocated to university hospitals];~~
 3. *A university hospital pool, composed of university hospitals, shall receive thirty-seven percent (37%) of the state's DSH allotment; except, however, that initial and final DSH payments to university hospitals shall be determined according to paragraph (e) of this subsection and not exceed the pool's overall allotment*~~[The percentage allowable by federal law pursuant to 42 U.S.C. sec. 1396r-4(h), up to nineteen and eight hundredths percent (19.08%) of the total disproportionate share funds shall be allocated to private psychiatric hospitals and state mental hospitals, with the allocation to each respective group of hospitals established by the biennial budget];~~
 4. If there are any remaining disproportionate share funds from *the psychiatric pool*~~[private psychiatric hospitals and state mental hospitals]~~, fifty-four percent (54%) of those funds shall be distributed to the *acute care pool* and~~[acute care hospitals]~~ and forty-six percent (46%) shall be distributed to the *university pool*. *If the university hospitals are unable to absorb additional DSH payment dollars, remaining funds shall be distributed to the acute care pool*~~[university hospitals]; and~~
 5. If, in any year,~~[one (1) or both]~~ university hospitals fail to provide state matching funds necessary to secure federal financial participation for the funds allocated to university hospitals under this subsection, the portion of the funding allocation *that is not matched by university hospitals*~~[applicable to the hospital or hospitals that fail to provide state matching funds]~~ shall be made available to *the acute care pool*~~[acute care hospitals]~~.
- (b) The MART fund shall be used to compensate acute care hospitals, private psychiatric hospitals, state mental hospitals, *critical access hospitals, comprehensive physical rehabilitation hospitals, long-term acute care hospitals*, and university hospitals participating in the disproportionate share program for uncompensated *care costs*~~[service provided by the hospitals to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Health and Family Services in accordance with this section]~~.
 - (c) An individual hospital shall receive distributions~~[for indigent care provided by that hospital]~~ if the hospital meets the requirements of the disproportionate share program *pursuant to 42 U.S.C. sec. 1396r-4*.
 - (d)
 1. *An individual hospital shall not receive an initial DSH payment unless the hospital submits a Medicaid DSH survey by the deadline established by subsection (8)(a) of this section, unless the deadline has been extended by the commissioner of the department. Extension requests shall be received at least ten (10) days prior to the deadline. Extensions shall be limited to rare circumstances which prevent the hospital from meeting the deadline despite due diligence. Extensions shall be granted for no more than thirty (30) calendar days from the original due date for the Medicaid DSH survey. Failure to submit a DSH survey in a timely manner or other required information for receipt of an initial DSH payment shall result in an individual hospital's final DSH payment being reduced by twenty percent (20%).*
 2. *A hospital newly enrolled in the Medicaid program, which does not have at least six (6) months of cost report information necessary to calculate an initial DSH payment, may submit a limited DSH survey for the purpose of determining if the hospital is eligible to receive an initial DSH payment.*
 - (e) Distributions ~~[to acute care and private psychiatric hospitals]~~ shall be made as follows:

1. *For state fiscal year 2018-2019, the department shall use the examined state fiscal year 2014-2015 DSH survey to calculate an initial DSH payment. Providers who did not receive a DSH payment for state fiscal year 2014-2015 shall be eligible to submit data for the purpose of the 2019 payment, subject to limited review. For state fiscal year 2019-2020, and each year thereafter, the department shall use the Medicaid DSH survey covering the hospital's fiscal year ending in the calendar year preceding July 1 of the applicable state fiscal year to calculate an initial DSH payment. Using the surveys submitted in accordance with this subsection, payments shall be made as follows:*
 - a. *Each university hospital in the university pool shall receive an initial DSH payment equal to one hundred percent (100%) of the hospital's total uncompensated care costs if the total initial DSH payments to all hospitals in the university pool do not exceed the maximum allotment to the university pool as set forth in subsection (3)(a) of this section. If the total uncompensated care costs for the pool exceed the pool's maximum allotment, the initial uncompensated care factor for university hospitals shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs of all hospitals in the university pool, and each hospital's initial DSH payment shall be calculated by multiplying the hospital's initial uncompensated care factor by the total funds allocated to the university hospital pool;*
 - b. *For each private psychiatric and state mental hospital in the psychiatric pool, the department shall calculate an initial uncompensated care factor. The initial uncompensated care factor for a private psychiatric or state mental hospital shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs for all private psychiatric or state mental hospitals in the psychiatric pool, as appropriate. Each hospital's initial DSH payment shall be calculated by multiplying the hospital's initial uncompensated care factor by the total funds allocated to private psychiatric or state mental hospitals in the psychiatric pool, as appropriate. No individual hospital's initial DSH payment shall exceed the hospital's hospital-specific DSH limit;*
 - c. *For each hospital in the acute care pool, the department shall make an initial determination of whether the acute care hospital qualifies as an essential hospital and calculate an initial uncompensated care factor for each hospital. The initial uncompensated care factor for each hospital in the acute care pool shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs for all hospitals in the acute care pool except that the initial uncompensated care factor for an essential hospital shall be calculated using two hundred percent (200%) of the hospital's total uncompensated care costs. Each hospital's initial DSH payment shall be calculated by multiplying the hospital's initial uncompensated care factor by the total funds allocated to the acute care pool. No individual hospital's initial DSH payment shall exceed the hospital's hospital-specific DSH limit;*
 - d. *For any hospital that is newly enrolled in the Medicaid program and lacks at least six (6) months of cost report information, the department shall calculate a proxy amount for the hospital's uncompensated care costs. A newly enrolled hospital's uncompensated care costs proxy amount shall be determined by first dividing the total uncompensated care costs for all non-newly enrolled hospitals in the appropriate pool by the total number of hospital beds, excluding swing beds, reported on the Medicaid cost reports by those hospitals and then multiplying the resulting uncompensated care cost per bed by the new hospital's total number of hospital beds, excluding swing beds. Any uncompensated care costs proxy amounts calculated for newly enrolled hospitals shall be used in the determination of initial uncompensated care factors for all other hospitals in the appropriate pool;*
 - e. *The department may make adjustments to a Medicaid DSH survey filed by a hospital to correct information that is incomplete or inaccurate as determined by limited review. If the department makes adjustments to a hospital's Medicaid DSH survey, the department shall provide written notice to the hospital;*

- f. If a hospital has a negative uncompensated care cost, its uncompensated care costs shall be excluded from the calculation of any uncompensated care costs proxy amount for newly enrolled hospitals and uncompensated care factors for the appropriate pool;*

~~{The department shall calculate an indigent care factor for each hospital annually. The indigent care factor shall be determined by calculating the percentage of each hospital's annual indigent care costs toward the sum of the total annual indigent care costs for all hospitals within each respective pool. For purposes of this paragraph, "indigent care costs" means the hospital's inpatient and outpatient care as reported to the department multiplied by the hospital's Medicaid rate, or at a rate determined by the department in administrative regulation that, when multiplied by the hospital's reported indigent care, is equivalent to the amount that would be payable by the department under the fee for service Medicaid program for the hospital's total reported indigent care.}~~

- ~~2. Each hospital's annual distribution shall be calculated by multiplying the hospital's indigent care factor by the total fund allocated to all hospitals within the respective pool under paragraph (a) of this subsection.~~

~~a. Hospitals shall report uncompensated care provided to qualified individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, including care rendered to indigent persons age twenty two (22) to sixty four (64) in a psychiatric hospital to the Cabinet for Health and Family Services on a quarterly basis. However, all data for care provided during the state fiscal year shall be submitted no later than August 15 of each year.~~

~~b. For state fiscal year 2001-2002 and each year thereafter, the department shall use data reported by the hospitals for indigent care services rendered for the twelve (12) month period ending June 30 of each year as reported by the hospital to the department by August 15 in calculating each hospital's indigent care factor. The hospital shall, upon request by the Cabinet for Health and Family Services, submit any supporting documentation to verify the indigent care data submitted for the calculation of an indigent care factor and annual payment.~~

~~g{e}. By September 30{1} of each year, the department shall calculate *an initial DSH payment pursuant to subparagraph (1) of this paragraph and shall notify each hospital of their calculation*{a preliminary indigent care factor and preliminary annual payment amount for each hospital, and shall notify each hospital of their calculation}. The notice shall, *at minimum*, contain *the following for*{a listing of} each *hospital*:~~{hospital's indigent }~~~~

- i. Uninsured uncompensated care costs;*
- ii. Total uncompensated care costs;*
- iii. The status of the MIUR and LIUR calculations;*
- iv. The uncompensated*~~{, their indigent }~~ *care factor*~~;~~~~{, }~~ *and*
- v. The*~~{the }~~ *estimated initial annual payment amount*~~;~~~~{, }~~

~~h. Hospitals shall notify the department by *October 31*~~{September 15}~~ of any adjustments in the department's *initial*~~{preliminary}~~ calculations;~~{, The department shall make adjustments identified by hospitals and shall make a final determination of each hospital's indigent care factor and annual payment amount by October 1. The department shall make a final determination of each hospital's annual payment amount upon notification through the Federal Register of the annual federal disproportionate share hospital allotment for the Commonwealth.}~~~~

~~i.{e}) The department shall *make any necessary adjustments and shall* issue *an initial DSH payment* to each hospital *in* one (1) lump-sum payment on *or before November 30*~~{October 15, or later as soon as federal financial participation becomes available through notification by publication of the Federal Register}~~, for the disproportionate share funds available during the corresponding federal fiscal year. *If the federal disproportionate share allotment for the Commonwealth has not been published through the Federal Register by November 15, the*~~{The }~~ *department may pay a portion but no less than ninety percent (90%) of the expected annual payment prior to the*~~

publication of the annual federal allotment. *If a partial initial payment is made, the remaining amount shall be paid within sixty (60) days after the date upon which notice of the Commonwealth's federal allotment is published through the Federal Register; and*

- j. *An initial DSH payment shall not be subject to appeal;*
- 2. a. *Each hospital's total initial DSH payment shall be reconciled to a final DSH payment using the examined Medicaid DSH surveys and shall correspond to the applicable state fiscal year DSH payment year.*
- b. *Using the surveys submitted in accordance with subsection (8)(a) of this section, the department shall make a final determination of whether an acute care hospital qualifies as a MIUR or as a LIUR hospital. Any qualifying hospital will be deemed an essential hospital. Critical access hospital status will also be confirmed to make a final determination of essential hospital status.*
- c. *The department shall calculate a final DSH payment as follows:*
 - i. *Each university hospital shall receive a final DSH payment equal to one hundred percent (100%) of the hospital's total uncompensated costs so long as the total final DSH payments to all university hospitals do not exceed the maximum allotment to the university pool as set forth in subsection (3)(a) of this section. If total uncompensated care cost for the pool exceeds the pool's maximum allotment, the final uncompensated care factor for university hospitals shall be determined by calculating the percentage of each hospital's total uncompensated care costs toward the sum of the total uncompensated care costs for all hospitals within the university pool. In this event, each hospital's final DSH payment shall be calculated by multiplying the hospital's uncompensated care factor by the total fund allocated to the hospitals within the respective pool under subsection (3)(a) of this section;*
 - ii. *For hospitals in the acute care pool and the psychiatric pool, the department shall recalculate each hospital's uncompensated care factor using examined data. The final uncompensated care factor for each hospital that qualifies as an essential hospital shall be computed using two hundred percent (200%) of the hospital's total uncompensated care costs using examined data;*
 - iii. *If a hospital has a negative uncompensated care cost, their uncompensated care cost will be excluded in the calculation of uncompensated care factors; and*
 - iv. *The department shall compare each hospital's initial DSH payment with the hospital's final DSH payment and with the hospital's hospital-specific DSH limit to determine if any underpayment or an overpayment exists.*
- d. *By September 30 of the fourth year following the year in which an initial DSH payment is made, the department shall provide each hospital with a final DSH reconciliation report which, at a minimum, shall indicate the following:*
 - i. *A hospital's final MIUR and LIUR status;*
 - ii. *Final uncompensated care factor and underlying data;*
 - iii. *Final DSH payment; and*
 - iv. *If applicable, the amount of any overpayment to be paid to the department and the due date for repayment.*
- e. *If an overpayment is identified, repayment shall be made by January 31 of the following year, which is five (5) years following the year in which an initial DSH payment is made.*
- f. *Hospitals shall notify the department by October 31 of any corrections to the department's calculations.*
- g. *If a hospital's initial DSH payment was less than the hospital's final DSH payment, the department shall pay the hospital the amount of the difference. Final DSH payments*

shall be issued by the department within sixty (60) days of the due date for the repayment of funds from hospitals with a DSH overpayment. If all repayments have not yet been received by the due date, the department shall distribute the funds collected as of the due date, and shall issue additional payments on a timely basis upon collection of all remaining outstanding overpayments.

- h. *Any funds remaining after the reconciliation process shall be redistributed pursuant to subparagraph 3. of this paragraph; and*
- 3. *Disproportionate share payments remaining after reconciling each hospital's initial DSH payment with the hospital's final DSH payment shall be distributed to other hospitals in the acute care pool, university pool, or to private psychiatric hospitals in the psychiatric pool as follows:*
 - a. *Funds shall first be distributed to all hospitals in the same pool as the hospitals from which the overpayments were recovered, and the funds shall be distributed in a proportional manner in relation to each hospital's remaining total uncompensated care costs in accordance with the hospital's examined DSH survey for the applicable DSH year;*
 - b. *In the proportional distribution, the distribution factor for each hospital that qualifies as an essential hospital shall be computed using two hundred percent (200%) of the hospital's total remaining uncompensated care costs; and*
 - c. *If DSH funds remain after making this distribution to other hospitals in the same pool, funds shall be distributed proportionally to hospitals in the acute care pool, university pool, and private psychiatric hospitals in the psychiatric pool in relation to each hospital's remaining total uncompensated care costs in accordance with the hospital's examined Medicaid DSH survey for the applicable DSH year.*
- (4) Notwithstanding any other provision to *the* contrary, total annual disproportionate share payments made to state mental hospitals, university hospitals, acute care hospitals, *critical access hospitals, comprehensive physical rehabilitation hospitals, long-term acute care hospitals*, and private psychiatric hospitals in each state fiscal year shall be equal to the maximum amount of disproportionate share payments established under the Federal Balanced Budget Act of 1997 and any amendments thereto. Disproportionate share payments *made to a hospital* ~~shall be subject to the availability of adequate state matching funds and~~ shall not exceed *the hospital's total uncompensated costs or the hospital's hospital-specific DSH limit.*
- ~~{(5) Hospitals receiving reimbursement shall not bill patients for services submitted for reimbursement under this section and KRS 205.641. Services provided to individuals who are eligible for medical assistance or the Kentucky Children's Health Insurance Program do not qualify for reimbursement under this section and KRS 205.641. Hospitals shall make a reasonable determination that an individual does not qualify for these programs and shall request the individual to apply, if appropriate, for medical assistance or Kentucky Children's Health Insurance on forms supplied by and in accordance with procedures established by the Department for Medicaid Services. The hospital shall document any refusal to apply and shall inform the patient that the refusal may result in the patient being billed for any services performed. The hospital shall not be eligible for reimbursement if the patient was eligible for medical assistance or Kentucky Children's Health Insurance and did not apply. Hospitals receiving reimbursement under this section and KRS 205.641 shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.}~~
- ~~(5){(6)}~~ The secretary of the Cabinet for Health and Family Services shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for the administration and implementation of this section.
- ~~(6){(7)}~~ All hospitals receiving reimbursement under this section ~~{and KRS 205.641}~~ shall display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay."
- ~~(7){(8)}~~ The hospital shall, upon request by the Cabinet for Health and Family Services, submit any supporting documentation to substantiate compliance with the audit requirements established by 42 C.F.R. sec. 455.
- (8) (a) *An in-state hospital participating in the Medicaid Program shall submit a Medicaid DSH survey corresponding to the hospital's cost reporting period to the department no later than sixty (60) days following the hospital's submission of their annual cost report, unless an extension has been granted*

by the commissioner. Extension requests shall be received ten (10) days prior to the deadline. Extensions shall be limited to rare circumstances which prevent the hospital from meeting the deadline despite its due diligence. Extensions shall be granted for no more than thirty (30) calendar days from the original due date. A new in-state hospital lacking six (6) months of cost report information necessary to calculate an initial DSH payment shall submit a limited DSH survey to determine eligibility no later than the September 1 immediately prior to the department's initial DSH payment calculation. A hospital may submit corrections to an applicable Medicaid DSH survey prior to the scheduled start date of the department's desk review.

- (b) The department shall notify each hospital in advance of the desk review of the opportunity to submit corrections to the Medicaid DSH survey.*
- (c) The department and each Medicaid managed care organization shall supply a paid claims listing (PCL) to each hospital within ninety (90) days of the last day of the hospital's fiscal year end date and a second set of data twelve (12) months after the hospital's fiscal year end date. The PCL shall include all claims with discharge dates or service dates, as applicable, within the hospital's fiscal year that are paid from the first day of the hospital's fiscal year to ninety (90) days or twelve (12) months, respectively, after the end of the hospital's fiscal year. For all hospitals, the department and each Medicaid managed care organization shall provide separate reports for adjudicated claims associated with both inpatient services and outpatient services provided to eligible members. If the PCL data is inaccurate or unavailable, providers shall complete the DSH survey using internal data.*
- (d) The department shall specify a timetable for hospitals to update DSH audit survey data.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

A Medicaid managed care organization that does not provide a hospital with an accurate and complete paid claims listing as required under Section 2(8)(c) of this Act shall be subject to a penalty of one thousand dollars (\$1,000) per day, starting on the first day after the report was due and continuing until the report is provided.

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

- (1) If federal law governing disproportionate share hospital payments changes, the Department for Medicaid Services may promulgate administrative regulations in accordance with KRS Chapter 13A to comply with the changes.*
- (2) All payments specified in Section 2 of this Act are contingent upon the receipt of federal financial participation, availability of state funds, and Centers for Medicare and Medicaid Services' approval.*

➔Section 5. The following KRS section is repealed:

205.641 Disproportionate share funds paid to acute care hospitals and private psychiatric hospitals.

Signed by Governor April 2, 2018.

CHAPTER 77

(HB 263)

AN ACT relating to home-based food products.

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

➔Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

- (1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;*
- (2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal*

act. For the purposes of KRS 217.136 and 217.137, "bread" or "enriched bread" also means breads that may include vegetables or fruit as an ingredient;

- (3) "Cabinet" means the Cabinet for Health and Family Services or its designee;
- (4) "Color" means but is not limited to black, white, and intermediate grays;
- (5) "Color additive" means a material that:
 - (a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or
 - (b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;
- (6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;
- (7) "Cosmetic" means:
 - (a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and
 - (b) Articles intended for use as a component of those articles, except that the term shall not include soap;
- (8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:
 - (a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or
 - (b) To affect the structure or any function of the body of man or other animals;
- (9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;
- (11) "Drug" means:
 - (a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;
 - (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;
 - (c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and
 - (d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;
- (12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;
- (13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;
- (14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

- (15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;
- (16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;
- (17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;
- (18) "Food" means:
 - (a) Articles used for food or drink for man or other animals;
 - (b) Chewing gum; and
 - (c) Articles used for components of any such article;
- (19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:
 - (a) A pesticide chemical in or on a raw agricultural commodity;
 - (b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;
 - (c) A color additive; or
 - (d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;
- (20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments, home-based processors, or home-based microprocessors;
- (21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments

serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

- (22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;
- (23) "Immediate container" does not include package liners;
- (24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:
 - (a) The number of potential illnesses or injuries; or
 - (b) The nature, severity, and duration of the anticipated illness or injury;
- (25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;
- (26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;
- (27) "Labeling" means all labels and other written, printed, or graphic matter:
 - (a) Upon an article or any of its containers or wrappers; or
 - (b) Accompanying the article;
- (28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";
- (29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;
- (30) "New drug" means:
 - (a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or
 - (b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;
- (31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;
- (32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;
- (33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;
- (34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;
- (35) "Practitioner" means medical or osteopathic physicians, dentists, chiropractors, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced practice registered nurses as authorized in KRS 314.011 and 314.042, physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858, and health care professionals who are residents of and actively practicing in a state other than Kentucky and who are licensed and have prescriptive authority under the professional licensing laws of another state, unless

the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

- (36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, advanced practice registered nurse, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;
- (38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;
- (39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;
- (40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, ~~for~~ food processing establishments, **or home-based processors**;
- (41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;
- (42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, reconditioning, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifrices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;
- (43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;
- (44) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;
- (46) "Traffic" has the same meaning as it does in KRS 218A.010;
- (47) "Ultimate user" has the same meaning as it does in KRS 218A.010;
- (48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;
- (49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;
- (50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment;

- (51) "Home" means a primary residence occupied by the processor, that contains only two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators used for cold storage. This equipment shall have been designed for home use and not for commercial use, and shall be operated in the kitchen within the residence;
- (52) "Formulated acid food product" means an acid food in which the addition of a small amount of low-acid food results in a finished equilibrium pH of 4.6 or below that does not significantly differ from that of the predominant acid or acid food;
- (53) "Acidified food product" means a low-acid food to which acid or acidic food is added and which has a water activity value greater than 0.85, and a finished equilibrium pH of 4.6 or below;
- (54) "Low-acid food" means foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6, and a water activity value greater than 0.85;
- (55) "Acid food" means foods that have a natural pH of 4.6 or below;
- (56) "Home-based processor" means a *person who in his or her*~~[farmer who, in the farmer's]~~ home, produces or processes whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies;
- (57) "Home-based microprocessor" means a farmer who, in the farmer's home or certified or permitted kitchen, produces or processes acid foods, formulated acid food products, acidified food products, or low-acid canned foods, and who has a net income of less than thirty-five thousand dollars (\$35,000) annually from the sale of the product;
- (58) "Certified" means any person or home-based microprocessor who:
 - (a) Has attended the Kentucky Cooperative Extension Service's microprocessing program or pilot microprocessing program and has been identified by the Kentucky Cooperative Extension Service as having satisfactorily completed the prescribed course of instruction; or
 - (b) Has attended some other school pursuant to 21 C.F.R. sec. 114.10;
- (59) "Farmer" means a person who is a resident of Kentucky and owns or rents agricultural land pursuant to subsection (9) of KRS 132.010 or horticultural land pursuant to subsection (10) of KRS 132.010. For the purposes of KRS 217.136 to 217.139, "farmer" also means any person who is a resident of Kentucky and has grown the primary horticultural and agronomic ingredients used in the home-based *microprocessed*~~processed~~ products which they have produced; and
- (60) "Farmers market temporary food service establishment" means any temporary food service establishment operated by a farmer who is a member of the market which operates within the confines of a farmers market registered with the Kentucky Department of Agriculture for the direct-to-consumer marketing of Kentucky-grown farm products from approved sources for a period of time not to exceed two (2) days per week for any consecutive six (6) months period in a calendar year.

➔Section 2. KRS 217.136 is amended to read as follows:

- (1) A home-based processor shall be exempt from KRS 217.035, 217.037, and 217.125 if the following conditions are met:
 - (a) All finished product containers are clean, sanitary, and properly labeled pursuant to subsection (3) of this section;
 - (b) All home-processed foods produced under this exemption are neither adulterated nor misbranded pursuant to subsection (4) of this section; and
 - (c) All glass containers for jams, jellies, preserves, fruit butter, and similar products are provided with suitable rigid metal covers.
- (2) A home-based processor shall not produce or process for sale acid foods, acidified food products, formulated acid food products, or low-acid canned foods.
- (3) A home-based processor shall label each of its food products and include the following information on the label of each of its food products:
 - (a) The name and address of the home-based processing operation;
 - (b) The common or usual name of the food product;

- (c) The ingredients of the food product, in descending order of predominance by weight;
 - (d) The net weight and volume of the food product by standard measure, or numerical count;
 - (e) The following statement in ten (10) point type: "This product is home-produced and processed"; and
 - (f) The date the product was processed.
- (4) Food products identified in KRS 217.015(56) and not labeled in accordance with subsection (3) of this section are deemed misbranded.
 - (5) Food products identified in KRS 217.015(56) and produced, processed, and labeled in accordance with subsection (3) of this section are acceptable food products that may only be offered for sale *directly to consumers within this state, including from the home-based processor's home, whether by pick-up or delivery, at a market, roadside stand, community event, or online*~~[by farmers markets, certified roadside stands, or on the processor's farm]~~. These food products may be used in preparing and serving food.
 - (6) Food products identified in KRS 217.015(56) and labeled in accordance with subsection (3) of this section shall not be required to be tested in determining whether or not the food product is an acid food, acidified food product, formulated acid food product, or low-acid food.
 - (7) The processing facilities of a home-based processor may be inspected annually by the cabinet.
 - (8) A home-based processor shall be subject to food sampling and inspection if it is determined that its food product is misbranded pursuant to subsection (4) of this section or adulterated, or if a consumer complaint has been received.
 - (9) If the cabinet has reason to believe that an imminent health hazard exists it may invoke cessation of production until it deems that the hazardous situation has been addressed to the satisfaction of the cabinet.

Signed by Governor April 2, 2018.

CHAPTER 78

(HB 244)

AN ACT relating to reorganization.

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

➔Section 1. KRS 42.650 is amended to read as follows:

- (1) The Division of *Enterprise Portfolios*~~[Geographic Information Systems]~~ is hereby established in the Office of *IT Architecture and Governance*~~[Application Development]~~ within the Commonwealth Office of Technology in the Finance and Administration Cabinet.
- (2) The Division of *Enterprise Portfolios*~~[Geographic Information Systems]~~ shall be headed by a division director, whose appointment is subject to KRS 12.050. The division director may employ personnel, pursuant to the provisions of KRS Chapter 18A, as required to perform the functions of the office.
- (3) The division may solicit, receive, and consider proposals for funding from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation. The division may also solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance.
- (4) The division shall:
 - (a) Establish a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;
 - (b) Coordinate multiagency geographic information system projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

- (c) Provide access to both consulting and technical assistance, and education and training, on the application and use of geographic information technologies to state and local agencies;
 - (d) Maintain, update, and interpret geographic information and geographic information systems standards, under the direction of the council;
 - (e) Provide geographic information system services, as requested, to agencies wishing to augment their geographic information system capabilities;
 - (f) In cooperation with other agencies, evaluate, participate in pilot studies, and make recommendations on geographic information systems hardware and software;
 - (g) Assist the council with review of agency information resource plans and participate in special studies as requested by the council;
 - (h) Provide staff support and technical assistance to the Geographic Information Advisory Council; and
 - (i) Prepare proposed legislation and funding proposals for the General Assembly which will further solidify coordination and expedite implementation of geographic information systems.
- (5) The division may promulgate necessary administrative regulations for the furtherance of this section.

➔Section 2. KRS 42.724 is amended to read as follows:

- (1) There is hereby created within the Finance and Administration Cabinet an agency of state government known as the Commonwealth Office of Technology.
- (2) The Commonwealth Office of Technology shall be headed by an executive director, also known as the chief information officer, appointed by the secretary of the Finance and Administration Cabinet **and approved by the Governor**. Duties and functions of the executive director shall include serving on the Governor's Executive Cabinet and those established in KRS 42.730.
- (3) The Commonwealth Office of Technology shall consist of the following five (5) offices, each headed by an executive director and organized into divisions headed by a division director:
 - (a) Office of **Project Management**~~{Enterprise Technology, consisting of the:~~
 - 1. ~~Division of IT Governance; and~~
 - 2. ~~Division of Enterprise Architecture};~~
 - (b) Office of **IT**~~{Infrastructure}~~ Services **and Delivery**, consisting of the:
 - 1. Division of **Network**~~{Technical}~~ Services;
 - 2. Division of **Platform Services**~~{Communications}~~;
 - and**
 - 3. ~~{Division of IT Operations; and~~
 - 4. ~~}Division of Field Services;~~
 - (c) Office of **Office of IT Architecture and Governance**~~{Application Development}~~, consisting of the:
 - 1. Division of **Enterprise Portfolios**~~{Revenue Application Development}~~;
 - 2. Division of **Applications**~~{Agency Application Development}~~;
 - 3. Division of ~~{Development}~~ Support Services;
 - and**
 - 4. Division of **Enterprise Governance**~~{Geographic Information Systems; and~~
 - 5. ~~Division of Data Management Services};~~
 - (d) Office of **the** Chief Information Security Officer. The office shall ensure the efficiency and effectiveness of information technology security functions and responsibilities; and
 - (e) Office of **KY Business One Stop**~~{Information Technology Service Management}~~.
- (4) Executive directors and division directors appointed under this section shall be appointed by the secretary with the approval of the Governor.

➔Section 3. KRS 42.726 is amended to read as follows:

- (1) ***The Commonwealth Office of Technology shall be the lead organizational entity within the executive branch regarding delivery of information technology services, including application development and delivery, and shall serve as the single information technology authority for the Commonwealth.***
- (2) The roles and duties of the Commonwealth Office of Technology shall include but not be limited to:
 - (a) Providing technical support and services to all executive agencies of state government in the application of information technology;
 - (b) Assuring compatibility and connectivity of Kentucky's information systems;
 - (c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;
 - (d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture, including implementing necessary management processes to assure full compliance with those directions, standards, and architecture;
 - (e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;
 - (f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth and all related support staff, planning, administration, asset management, and procurement for all executive branch cabinets and agencies except:
 1. Agencies led by a statewide elected official;
 2. The nine (9) public institutions of postsecondary education;
 3. The Department of Education's services provided to local school districts;
 4. The Kentucky Retirement Systems and the Teachers' Retirement System;
 5. The Kentucky Housing Corporation;
 6. The Kentucky Lottery Corporation;
 7. The Kentucky Higher Education Student Loan Corporation; and
 8. The Kentucky Higher Education Assistance Authority;
 - (g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;
 - (h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The executive director is authorized to grant or withhold approval to initiate these projects;
 - (i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;
 - (j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;
 - (k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;
 - (l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;
 - (m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;

- (n) Providing staff support and technical assistance to the Geographic Information Advisory Council and the Kentucky Information Technology Advisory Council;
 - (o) Overseeing the development of a statewide geographic information plan with input from the Geographic Information Advisory Council;
 - (p) Developing for state executive branch agencies a coordinated security framework and model governance structure relating to the privacy and confidentiality of personal information collected and stored by state executive branch agencies, including but not limited to:
 1. Identification of key infrastructure components and how to secure them;
 2. Establishment of a common benchmark that measures the effectiveness of security, including continuous monitoring and automation of defenses;
 3. Implementation of vulnerability scanning and other security assessments;
 4. Provision of training, orientation programs, and other communications that increase awareness of the importance of security among agency employees responsible for personal information; and
 5. Development of and making available a cyber security incident response plan and procedure; and
 - (q) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.
- ~~(3)~~~~(2)~~ The Commonwealth Office of Technology may:
- (a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the executive director finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;
 - (b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, 186A.285, and 194A.146;
 - (c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;
 - (d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, 186A.285, and 194A.146;
 - (e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;
 - (f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the Commonwealth Office of Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable; and
 - (g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:
 1. New and emerging technologies as approved by the executive director or her or his designee; or
 2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.
- ~~(4)~~~~(3)~~ Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.
- ~~(5)~~~~(4)~~ The Commonwealth Office of Technology shall, on or before October 1 of each year, submit to the Legislative Research Commission a report in accordance with KRS 57.390 detailing:

- (a) Any security breaches that occurred within organizational units of the executive branch of state government during the prior fiscal year that required notification to the Commonwealth Office of Technology under KRS 61.932;
- (b) Actions taken to resolve the security breach, and to prevent additional security breaches in the future;
- (c) A general description of what actions are taken as a matter of course to protect personal data from security breaches; and
- (d) Any quantifiable financial impact to the agency reporting a security breach.

➔Section 4. KRS 42.730 is amended to read as follows:

- (1) The executive director of the Commonwealth Office of Technology shall be the principal adviser to the Governor and the executive cabinet on information technology policy, including policy on the acquisition and management of information technology and resources.
- (2) ***The executive director of the Commonwealth Office of Technology shall also serve as the chief information officer for all agencies within the executive branch, including the Commonwealth Office of Technology.***
- (3) The executive director shall carry out functions necessary for the efficient, effective, and economical administration of information technology and resources within the executive branch. Roles and duties of the executive director shall include but not be limited to:
 - (a) Assessing, recommending, and implementing information technology governance and organization design to include effective information technology personnel management practices;
 - (b) Integrating information technology and resources plans with agency business plans;
 - (c) Overseeing shared Commonwealth information technology resources and services;
 - (d) Performing as the focal point and representative for the Commonwealth in information technology and related areas with both the public and private sector;
 - (e) Establishing appropriate partnerships and alliances to support the effective implementation of information technology projects in the Commonwealth;
 - (f) Identifying information technology applications that should be statewide in scope, and assisting agencies in avoiding duplicate services;
 - (g) Establishing performance measurement and benchmarking policies and procedures;
 - (h) Preparing annual reports and plans concerning the status and result of the state's specific information technology plans and submitting these annual reports and plans to the Governor and the General Assembly; ~~and~~
 - (i) Managing the Commonwealth Office of Technology and its budget; ***and***
 - (j) ***Approving technology acquisition prior to any procurement.***

➔Section 5. KRS 42.738 is amended to read as follows:

- (1) The executive director shall establish and implement a statewide public safety interoperability plan. This plan shall include the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The executive director shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The executive director shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.
- (2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the executive director for final approval. Local government entities shall present project plans for

primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.

- (3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the executive director, the Governor's Office for Policy and Management, and the General Assembly.
- (4) The executive director shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.
- (5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty (20) members as follows:
 - (a) A person knowledgeable in the field of wireless communications appointed by the executive director who shall serve as chair;
 - (b) The executive director of the Office of ~~IT Infrastructure~~ Services **and Delivery**, Commonwealth Office of Technology;
 - (c) The executive director of Kentucky Educational Television, or the executive director's designee;
 - (d) The ~~chief~~ information **technology lead** ~~officer~~ of the Transportation Cabinet;
 - (e) The ~~chief~~ information **technology lead** ~~officer~~ of the Justice and Public Safety Cabinet;
 - (f) The ~~chief~~ information **technology lead** ~~officer~~ of the Department of Kentucky State Police;
 - (g) The commissioner of the Department of Fish and Wildlife Resources, or the commissioner's designee;
 - (h) The ~~chief~~ information **technology lead** ~~officer~~ of the Energy and Environment Cabinet;
 - (i) The director of the Division of Emergency Management, Department of Military Affairs;
 - (j) The executive director of the Kentucky Office of Homeland Security;
 - (k) The ~~chief~~ information **technology lead of the** ~~officer~~, Department for Public Health, Cabinet for Health and Family Services;
 - (l) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;
 - (m) The executive director of the Center for Rural Development, or the executive director's designee;
 - (n) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;
 - (o) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;
 - (p) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;
 - (q) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;
 - (r) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;
 - (s) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and
 - (t) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.
- (6) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

- (7) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.
- (8) The committee shall be attached to the Commonwealth Office of Technology for administrative purposes only. Members shall not be paid and shall not be reimbursed for travel expenses.
- (9) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.
- (10) The committee may establish additional working groups as determined by the committee.

➔Section 6. KRS 42.742 is amended to read as follows:

- (1) The Geographic Information Advisory Council's duties shall include the following:
 - (a) Recommending the development and adoption of policies and procedures related to geographic information and geographic information systems;
 - (b) Providing input and recommendations for the development of a strategy for the maintenance and funding of a statewide base map and geographic information system;
 - (c) Recommending standards on geographic information and geographic information systems for inclusion in the statewide architecture;
 - (d) Contributing to the development and delivery of a statewide geographic information plan;
 - (e) Overseeing the development of operating policies and procedures for the management of the council and any standing or ad hoc committees and associated advisory groups; and
 - (f) Promoting collaboration and the sharing of data and data development, as well as other aspects of geographic information systems.
- (2) The Division of **Enterprise Portfolios**~~[Geographic Information Systems]~~ shall provide necessary staff support services to the council. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the council necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

➔Section 7. KRS 42.744 is amended to read as follows:

- (1) All entities in Kentucky that create or purchase digital ortho-rectified aerial imagery, remotely sensed imagery, LiDAR, digital elevation models, or any other form of nonlicensed raster-based datasets of locations in Kentucky using public funds, in whole or in part, shall provide a copy of the information to the Commonwealth Office of Technology, Division of **Enterprise Portfolios**~~[Geographic Information Systems]~~, without cost, in order to allow the Commonwealth Office of Technology to effectively discharge its statutory responsibility to maintain an accurate and complete central statewide geographic information clearinghouse for official state use. The imagery provided to the Commonwealth Office of Technology shall be added to Kentucky's secure Geospatial Data Warehouse for official government use only.
- (2) Subsection (1) of this section shall not apply to roads, land parcels, structure locations, or other vector-based datasets acquired with public funding.
- (3) The Commonwealth Office of Technology shall not disclose to the general public or make available for distribution, download, or purchase any data that an entity providing data under subsection (1) of this section has requested remain confidential.

➔Section 8. KRS 116.200 is amended to read as follows:

- (1) (a) On or before January 1, 2011, each city clerk, except in consolidated local governments and urban-county governments, shall provide the clerk of the county or counties in which the city is located with a list of all properties within the city and a map of the city boundaries for the county clerk to maintain a roster of voters who are eligible to vote in city elections. A county clerk may accept the list of city properties in an electronic format and the city clerk may provide a copy of the city's boundary map

maintained by the Kentucky Commonwealth Office of Technology, Division of *Enterprise Portfolios* ~~Geographic Information Systems~~; and

- (b) Documentation of any change to the boundaries of a city shall be reported to the county clerk in accordance with KRS 81A.470 and 81A.475.
- (2) (a) On or before January 1, 2011, each school district board shall provide the clerk of the county in which the school district is located with maps and written descriptions of the boundaries of each school board district located in the county for the county clerk to maintain a roster of voters who are eligible to vote in school board elections.
- (b) Documentation of any change to a school district's boundaries shall be reported to the county clerk within sixty (60) days of the change, or immediately if the change is within sixty (60) days of the August 1 deadline established in KRS 160.210(4)(d).
- (3) Each county clerk shall code all registered voters in that county in such a manner that precinct election officers may determine the voter's eligibility to vote in city and school board elections prior to each primary and regular election for city officers in that county, each regular election for school board members in that county, and each special election in which a ballot question is presented to the residents of a city or a school board district.
- (4) Notwithstanding KRS 64.012, the county clerk shall not charge a fee to a city or school district providing any information required by subsections (1)(a) and (2)(a) of this section.
- (5) Nothing in this section shall prohibit a county clerk from requesting additional information from the city, school district board, or any other reliable source to ascertain whether a registered voter resides within a city or a school district boundary.

➔Section 9. KRS 131.020 is amended to read as follows:

- (1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:
 - (a) Office of the Commissioner, which shall consist of:
 - 1. The Division of Protest Resolution, headed by a division director who shall report directly to the commissioner. The division shall administer the protest functions for the department from office resolution through court action; and
 - 2. The Division of Taxpayer Ombudsman, headed by a division director who shall report to the commissioner. The division shall perform those duties set out in KRS 131.083;
 - (b) Office of Tax Policy and Regulation, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for:
 - 1. Providing oral and written technical advice on Kentucky tax law;
 - 2. Drafting proposed tax legislation and regulations;
 - 3. Testifying before legislative committees on tax matters;
 - 4. Analyzing tax publications;
 - 5. Providing expert witness testimony in tax litigation cases;
 - 6. Providing consultation and assistance in protested tax cases; and
 - 7. Conducting training and education programs;
 - (c) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:
 - 1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;

2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments, including protest resolution, and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency;~~and~~
 3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time; **and**
 4. ***Division of Application Development and Support, which shall be responsible for providing project management, planning, analysis, application development, implementation, security, support and maintenance for new and legacy systems of the Department of Revenue;***
- (d) Office of Property Valuation, headed by an executive director who shall report directly to the commissioner. The office shall consist of the:
1. Division of Local Support, which shall be responsible for providing supervision, assistance, and training to the property valuation administrators and sheriffs within the Commonwealth;
 2. Division of State Valuation, which shall be responsible for providing assessments of public service companies and motor vehicles, and providing assistance to property valuation administrators and sheriffs with the administration of tangible and omitted property taxes within the Commonwealth; and
 3. Division of Minerals Taxation and Geographical Information System Services, which shall be responsible for providing geographical information system mapping support, ensuring proper filing of severance tax returns, ensuring consistency of unmined coal assessments, and gathering and providing data to properly assess minerals to the property valuation administrators within the Commonwealth;
- (e) Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
 2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;
- (f) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Individual~~Income~~ Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
 2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and
- (g) Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.
- (2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

- (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
- (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.
- (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

➔Section 10. The General Assembly confirms Executive Order 2017-0889, dated December 13, 2017, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor April 2, 2018.

CHAPTER 79

(HB 176)

AN ACT relating to fee disclosures by licensed ambulance providers.

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

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

(1) *Each licensed ambulance provider, as defined in KRS 311A.010, shall:*

(a) *Post in a conspicuous area of the main office, any satellite location, and on the company Web site, if the company hosts or otherwise maintains a Web site itself or through contract with another party, a comprehensive fee schedule of all services provided that is consistent with the Healthcare Common Procedure Coding System (HCPCS). The fee schedule shall:*

- 1. *Clearly identify fees for services including base rates, mileage, disposable supply fees, and any other potential fees for services provided; and*
- 2. *Be documented in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons of fees among licensed ambulance providers;*

(b) *Provide a copy of this fee schedule to a beneficiary at the time of service upon request;*

(c) *Update fee schedules within fifteen (15) calendar days of any modification; and*

(d) *Submit a report of an initial ambulance provider fee schedule and any subsequent modifications to the Kentucky Board of Emergency Medical Services. The report shall be subject to open records requests under KRS 61.870 to 61.884.*

(2) *The Kentucky Board of Emergency Medical Services shall:*

(a) *Assess a licensed ambulance provider a monetary penalty of one hundred fifty dollars (\$150) per occurrence for failure to post or update a modified fee schedule as required under subsection (1) of this section; and*

(b) *Issue a statement of violation consistent with administrative regulations promulgated by the Kentucky Board of Emergency Medical Services.*

(3) *The Kentucky Board of Emergency Medical Services shall promulgate administrative regulations to implement the provisions of this section.*

Signed by Governor April 2, 2018.

CHAPTER 80

(HB 158)

AN ACT relating to life insurance for public employees.

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

➔Section 1. KRS 18A.205 is amended to read as follows:

- (1) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary, may procure from one (1) or more life insurance companies, authorized to do business in this state, a policy or policies of group life insurance insuring the lives of all or any class or classes of **public**~~[state]~~ employees. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as the commissioner of insurance approves whether or not otherwise permitted by the insurance laws. It is intended that life insurance may be made available for **public**~~[state]~~ employees, except that the procuring is permissive.
- (2) (a) *As used in*~~[The term "state employee," for purposes of]~~ KRS 18A.205 to 18A.215, "**public employee**" shall mean a person who:
 1. Is regularly employed by **a public employer**; ~~and [any department, board, agency, or branch of state government, and who]~~
 2. Is also:
 - a.~~[(a)]~~ A contributing member of any one (1) of the state-administered retirement systems;~~[or]~~
 - b.~~[(b)]~~ A retiree of a state-administered retirement system who is employed in a regular full-time position for purposes of retirement coverage, but who is not eligible to contribute to one (1) of the systems administered by Kentucky Retirement Systems pursuant to KRS 61.637(17); **or**
 - c. *An individual participating in an optional retirement plan authorized by KRS 161.567.*
- (b) Notwithstanding the definition of "**public**~~[state]~~ employee" in this subsection, any federally funded time-limited employee may receive insurance coverage.
- (3) *As used in this section and Section 2 of this Act, "public employer" shall mean the following employers, if the employer has opted to participate in the state-sponsored group life insurance program:*
 - (a) *Any department, office, board, agency, commission, authority, or branch of state government;*
 - (b) *A public postsecondary educational institution;*
 - (c) *Any department, office, board, agency, commission, authority, or branch of a city, urban-county, charter county, county, unified local government, or consolidated local government; or*
 - (d) *Any certified or classified employee or elected member of a local board of education.*
- ~~(4) [(3)]~~ *As used in*~~[The term "premiums," for the purposes of]~~ KRS 18A.205 to 18A.225, "**premiums**" shall mean premiums to be paid on any type of insurance authorized under KRS 18A.205 to 18A.225.

➔Section 2. KRS 18A.210 is amended to read as follows:

The premiums may be paid by the policyholder:

- (1) Wholly from funds contributed by the insured **public** employee, by payroll deduction or otherwise;~~[;]~~
- (2) Wholly from funds contributed by the **public employer**~~[state or department or agency.];~~ or
- (3) Partly from each.

No payment of premium by the **public employer**~~[state or department, board or agency]~~ shall constitute compensation to an insured **public** employee for the purposes of any statute fixing or limiting the compensation of such an employee; any premium or other expense incurred by the **public employer**~~[state or department, board or agency]~~ shall be considered a proper cost of administration.

➔Section 3. KRS 18A.215 is amended to read as follows:

The policy or policies may also provide accidental death and dismemberment insurance and may contain such provisions with respect to the class or classes of **public** employees covered, amounts of insurance for designated

classes or groups of *public* employees, terms of eligibility, continuation of insurance after retirement, and such other provisions as the commissioner of insurance may approve.

Signed by Governor April 2, 2018.

CHAPTER 81

(HB 132)

AN ACT relating to financial literacy.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *Beginning with the entering ninth grade class of the 2020-2021 school year and each year thereafter, successful completion of one (1) or more courses or programs that meet the financial literacy standards shall be a Kentucky public high school graduation requirement. The graduation requirement shall also apply to a student pursuing an early graduation program, as established in KRS 158.142.*
- (2) *In accordance with KRS 156.160, the Kentucky Board of Education shall promulgate administrative regulations establishing academic standards and a graduation requirement for financial literacy.*
- (3) *The local school-based decision making council, or principal if no council exists, of each high school shall determine curricula for course offerings, programs, or a combination of course offerings and programs that are aligned with the financial literacy academic standards promulgated by the Kentucky Board of Education.*
- (4) *The Department of Education shall develop financial literacy guidelines that provide direction to local schools in developing and implementing the financial literacy standards.*

Signed by Governor April 2, 2018.

CHAPTER 82

(HB 291)

AN ACT relating to the National Guard.

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

➔Section 1. KRS 38.238 is amended to read as follows:

An employee shall be granted a leave of absence by his *or her* employer for the period required to perform active duty or training in the National Guard *of this or any other state*. Upon the employee's release from a period of active duty or training, *the employee* ~~he~~ shall be permitted to return to his *or her* former position of employment with the seniority, status, pay or any other rights or benefits he *or she* would have had if he *or she* had not been absent, except that no employer shall be required to grant an employee a leave of absence with pay.

➔Section 2. KRS 38.460 is amended to read as follows:

- (1) No person shall, either *as an individual* ~~by himself~~ or with another, willfully deprive a member of the ~~Kentucky~~ National Guard or Kentucky active militia of ~~his~~ employment, or prevent *the member* ~~his~~ being employed, or in any way obstruct a member of the ~~Kentucky~~ National Guard or Kentucky active militia in the conduct of ~~his~~ trade, business, or profession, or by threats of violence prevent any person from enlisting in the ~~Kentucky~~ National Guard or Kentucky active militia. *References to the National Guard in this statute include members of the National Guard of this or any other state.*
- (2) No association or corporation constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof shall by any constitution, rule, bylaw, resolution, vote, or

regulation discriminate against any member of the ~~[Kentucky]~~ National Guard or Kentucky active militia because of ~~[his]~~ membership, eligibility for membership, or right to retain membership in such organization.

➔Section 3. KRS 61.394 is amended to read as follows:

All officers and employees of this state, or of any department or agency thereof who are members of the National Guard or of any reserve component of the Armed Forces of the United States, or of the reserve corps of the United States Public Health Service, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits to which they are entitled, while in the performance of duty or training in the service of ~~a~~~~this~~ state or of the United States under competent orders as specified in this section. In any one (1) federal fiscal year, officers or employees, while on military leave, shall be paid their salaries or compensations for a period or periods not exceeding twenty-one (21) calendar days. Any unused military leave in a federal fiscal year shall be carried over to the next year. Any unused military leave shall expire two (2) years after it has accrued.

Signed by Governor April 2, 2018.

CHAPTER 83

(HB 275)

AN ACT relating to law enforcement.

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

➔Section 1. KRS 70.045 is amended to read as follows:

- (1) (a) The sheriff of a county with a population of ten thousand (10,000) or more may appoint and have sworn in and entered on the county clerk order book *either*:
 1. One (1) special deputy for each two thousand five hundred (2,500) residents or part thereof in his county; *or*
 2. *Up to a maximum of ten (10) special deputies, regardless of the population of the county;*~~;~~

to assist him with general law enforcement and maintenance of public order.

- (b) The sheriff of a county with a population of less than ten thousand (10,000) may appoint and have sworn in and entered on the county clerk order book one (1) special deputy for each one thousand (1,000) residents or part thereof in his county, to assist him with general law enforcement and maintenance of public order.

The population of the county shall be determined by the most recent count or estimate by the Federal Bureau of Census.

- (2) The sheriff in each county may appoint and have sworn in, and entered on the county clerk order book, as many special deputies as needed to assist him in the execution of his duties and office in preparation for or during an emergency situation, such as fire, flood, tornado, storm, or other such emergency situations. For purposes of this section only, an emergency situation is a condition which, in the judgment of the sheriff, requires a response immediately necessary for the preservation of public peace, health or safety, utilizing special deputies previously appointed in preparation for the contingency.
- (3) The special deputy shall:
 - (a) Be appointed and dismissed on the authority of the sheriff;
 - (b) Not receive any monetary compensation for his time or services;
 - (c) Serve at the request of the sheriff, unless personal conditions rule otherwise;
 - (d) Be answerable to and under the supervision of the sheriff, who shall be responsible for the actions of the special deputy; and
 - (e) Be appointed regardless of race, color, creed, or position.

- (4) The position of special deputy as created and defined in subsections (1), (2), and (3) is subject to the provisions of this section only.

➔Section 2. KRS 67C.319 is amended to read as follows:

- (1) Every consolidated local government police force merit system board created shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, probation, promotion, demotion, transfer, lay-off, reinstatement, suspension, and removal of the officers covered by KRS 67C.303, 67C.305, 67C.307, and 67C.309. No rule or regulation made, promulgated, or amended by any consolidated local government police force merit system board shall be inconsistent with the express provisions of this chapter. The board shall publish its rules and any amendments and shall supply certified copies to the mayor, legislative council, and the police chief and shall post a copy conspicuously in the office or place where the headquarters of the consolidated local government police is maintained. The copies of the rules and amendments shall be distributed and posted in the manner prescribed within three (3) days after adoption.
- (2) The rules in addition to other matters shall specifically provide for and cover the following:
 - (a) Physical, mental, educational, citizenship, and age requirements for new officers;
 - (b) Physical, mental, educational, citizenship, age, and length of service requirements for promotion from lower to higher rank or classification;
 - (c) A requirement that police officers, *since their most recent date of entry into that rank*, have *at least*:
 1. Five (5) years of *continuous* service as police officers before being eligible for promotion to the rank of sergeant; *and*
 2. *One (1) year of continuous service as police sergeants before being eligible for promotion to the rank of lieutenant;*
 - (d) Provision for open, competitive, written, oral, and other mental and physical examinations to determine the relative fitness of all candidates for original appointment and for promotion;
 - (e) A requirement of public notice of all examinations to be given by the merit board;
 - (f) Organization and meetings of the board; and
 - (g) Procedure and conduct of public hearings.
- (3) The board, with the approval of the mayor, shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade, and administer all written or other examinations as required by the board.
- (4) Physical fitness for promotion shall be presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.
- (5) At least ninety (90) days' notice shall be given before a promotional examination is conducted.
- (6) Promotional tests shall be graded, as determined by the board, to include *scores on the* written, oral, ~~or~~ and other examination ~~components~~ *components* ~~[scores]~~. In addition, seniority ~~[, not to exceed ten percent (10%) of a candidate's final evaluated rating,]~~ shall be awarded for each year of *full-time continuous* service *since being hired as a police recruit or police officer. If the candidate has been rehired after a period of separation, seniority for promotional tests shall be calculated from the most recent hire date.* The results of the written, oral, ~~or~~ and other ~~examination components~~ *examinations* shall be combined with *the* seniority *component* to determine the applicant's final ~~earned~~ *evaluated* rating. *The board shall determine the weight for each component of the final earned rating, including seniority. The weight assigned to seniority as a component shall not exceed ten percent (10%) of the maximum number of points attainable for all examination components combined.* If the number of candidates exceeds the number of positions in the rank for which the candidates are being tested, the chief examiner may set a cut-off score on any of the tests, excluding seniority, that candidates must meet or exceed in order for them to progress in the selection process. The cut-off score shall be set such that the number of candidates equals one-half (1/2) the number of positions in the rank for which the candidates are being tested, that number to be rounded up, at the time of the posting. If ties exist at the cut-off score, individuals having tied scores shall progress in the selection process.
- (7) Promotional eligibility lists shall contain the names of successful candidates in the order of their standing through examination. An individual's results and ratings are subject to review by the individual candidate but are otherwise confidential.

- (8) The chief examiner shall compile the results of all examinations. Upon completion of grading of examinations, candidates shall be informed by mail of the final evaluated rating attained and their individual ranking on the eligibility list. An applicant may, by appointment, discuss his or her examination results within the offices of the chief examiner during business hours at any time when such review will not interfere with the work of the board. Such review must be requested within ten (10) calendar days following the establishment of the eligibility list. The board shall make examination questions and answers available for inspection by the applicant upon the filing of a written challenge.
- (9) In filling promotional vacancies, the chief of police shall select from not more than five (5) candidates graded highest on the appropriate eligibility list. The board shall determine the justification for not promoting a candidate with the higher evaluated rating who has been certified for promotion four (4) times. If the board determines that the candidate's nonpromotion is unjustified or unsupported by the evidence, the candidate shall be promoted. The certified rank list for promotions shall be valid for two (2) years and shall not be extended. All promotional vacancies shall be filled within sixty (60) days of the vacancy.
- (10) ***For the purposes of this section:***
- (a) ***"Continuous service" means the period of time in which a police officer has been employed full-time in that position with the consolidated local government police department without separation. Continuous service shall not be broken if an employee, who has been involuntarily terminated, is reinstated by legal process; and***
- (b) ***"Separation" means removal from employment as a police officer but shall not include lawful leaves of absence from duty such as military leave, medical leave, or other lawful absences where return to duty is ordinarily expected.***

Signed by Governor April 2, 2018.

CHAPTER 84

(HB 164)

AN ACT relating to charitable gaming.

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

➔Section 1. KRS 238.535 is amended to read as follows:

- (1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the department. A charitable organization qualifying under subsection (12) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:
- (a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars (\$25,000) per year;
- (b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars (\$25,000) per year; and
- (c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars (\$25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars (\$25,000).

- (2) (a) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the department in writing, on a simple form issued by the department, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:
1. Payment of the fee imposed under the provisions of KRS 238.570; and

2. The quarterly reporting requirements imposed under the provisions of KRS 238.550(7), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (9) of this section.
- (b) Before January 31 of the year immediately following the year of exemption, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file a financial report with the department, on a form issued by the department, that contains the following information:
 1. The type of gaming activity in which it engaged during that year;
 2. The total gross receipts derived from gaming;
 3. The amount of charitable gaming expenses paid;
 4. The amount of net receipts derived; and
 5. The disposition of those net receipts.
- (3) An exemption that has been granted to a charitable organization for the preceding calendar year shall be automatically renewed on January 1 of the following year.
- (4) If upon receipt of the financial report the department determines that the information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department shall notify the charitable organization that its exemption is rescinded. The organization may request an appeal of this rescission pursuant to KRS 238.565.
- (5) If the annual financial report is not received by January 31, the exemption is automatically rescinded unless an extension of no more than thirty (30) days is granted by the department. The organization may request an appeal of this rescission pursuant to KRS 238.565.
- (6) If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (7) of this section.
- (7) If an organization exceeds the limit imposed by any subsection of this section it shall:
 - (a) Report the amount to the department; and
 - (b) Apply for a retroactive charitable gaming license.
- (8) Upon receipt of a report and application for a retroactive charitable gaming license, the department shall investigate to determine if the organization is otherwise qualified to hold the license.
- (9) If the department determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.
- (10) If the department determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.
- (11) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.
- (12) (a) In order to qualify for licensure, a charitable organization shall:
 1.
 - a. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or
 - b. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;
 2. Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure. For purposes of this paragraph, an applicant shall demonstrate establishment and continuous operation in Kentucky by its conduct of charitable activities from an office physically located within Kentucky both during the three (3) years immediately

preceding its application for licensure and at all times during which it possesses a charitable gaming license. However, a charitable organization that operates for charitable purposes in more than ten (10) states and whose principal place of business is physically located in a state other than Kentucky may satisfy the requirements of this paragraph if it can document that it has:

- a. Been actively engaged in charitable activities and has made reasonable progress, as defined in subparagraph 3. of this paragraph, in the conduct of charitable activities or the expenditure of funds within Kentucky for a period of three (3) years prior to application for licensure; and
 - b. Operated for charitable purposes from an office or place of business in the Kentucky county where it proposes to conduct charitable gaming for at least one (1) year prior to application for licensure, in accordance with subparagraph 4. of this paragraph and paragraph (c) of this subsection;
3. Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the department, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the department a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and
 4. Have maintained an office or place of business, other than for the conduct of charitable gaming, for at least one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the Department of Charitable Gaming; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space.
- (b) 1. A charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing or a charity fundraising event, including special limited charity fundraising events, in a Kentucky county other than that in which the organization's office or place of business is located.
 2. For raffles, the organization shall notify the Department of Charitable Gaming in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification:
 - a. May be transmitted in any commercially reasonable means, authorized by the department, including facsimile and electronic mail; and
 - b. Shall set out the place and the county in which the drawing will take place.

Approval by the department shall be received prior to the conduct of the raffle drawing at the new location.
 - (c) Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy the requirement contained in paragraph (a)4. of this subsection if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered.
- (13) In applying for a license, the information to be submitted shall include but not be limited to the following:
 - (a) The name and address of the charitable organization;
 - (b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county or counties in which charitable gaming is to be conducted;

- (c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;
 - (d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations' bylaws shall satisfy this requirement;
 - (e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;
 - (f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;
 - (g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;
 - (h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;
 - (i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;
 - (j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;
 - (k) An agreement that the charitable organization's records may be released by the Federal Internal Revenue Service to the department; and
 - (l) Any other information the department deems appropriate.
- (14) (a) An organization or a group of individuals that does not meet the licensing requirements of subsection (12) of this section may hold a raffle if:
- 1. The gross receipts do not exceed ~~five~~~~one~~ hundred ~~fifty~~ dollars (\$500);~~[(\$150) and]~~
 - 2. All proceeds from the raffle are distributed to a charitable organization; ~~and~~~~[-]~~
 - 3. The organization or group of individuals **holds no more than**~~may hold up to~~ three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and (13) of this section; **or**
- (b) *An organization or a group of individuals that does not meet the licensing requirements of subsection (12) of this section may hold a raffle if:*
- 1. *The organization holds a special event raffle license issued by the department and complies with the regulatory requirements in this chapter, including but not limited to the quarterly reporting requirements of KRS 238.550(7), the retention requirements of KRS 238.536, and payment of the fee imposed by KRS 238.570;*
 - 2. *The organization possesses a tax-exempt status under 26 U.S.C. sec. 501(c)(7);*
 - 3. *The organization holds no more than twelve (12) raffles per year;*
 - 4. *Each raffle complies with the department's raffle standards in KRS 238.545 and administrative regulations promulgated thereunder and is approved by the department in writing prior to the sale of the first raffle ticket;*
 - 5. *The gross receipts of each raffle do not exceed five hundred thousand dollars (\$500,000); and*
 - 6. *One hundred percent (100%) of the net receipts of each raffle shall be distributed to a charitable organization licensed by the department pursuant to subsection (12) of this section to conduct charitable gaming as follows:*
 - a. *All distributed net receipts shall be maintained by the recipient licensed charitable organization in a separate account to be designated as the "raffle recipient account";*

- b. *All distributed net receipts shall be expended by the recipient licensed charitable organization to further the charitable purpose of the recipient licensed charitable organization as required by KRS 238.550(4); and*
 - c. *All distributed net receipts, and the expenditure thereof, shall be reported to the department and be subject to the department's auditing and investigative authority consistent with the provisions of this chapter.*
 - (c) *An applicant qualifying under paragraph (b) of this subsection shall submit an application for a special event raffle license, and the information to be submitted shall include but not be limited to the following:*
 - 1. *The name and address of the organization;*
 - 2. *The date of the organization's establishment in the Commonwealth of Kentucky and the date of the organization's establishment in the county or counties in which charitable gaming is to be conducted;*
 - 3. *A statement of the purpose or purposes for which the organization was organized and identification of the licensed charitable organization to which the applicant will distribute its net receipts. If the organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;*
 - 4. *A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organization's bylaws shall satisfy this requirement.*
 - 5. *The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;*
 - 6. *The names, addresses, dates of birth, and Social Security numbers of all employees and members of the organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;*
 - 7. *The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the organization;*
 - 8. *A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;*
 - 9. *A statement signed by the presiding or other responsible officer of the organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;*
 - 10. *An agreement that the organization's records may be released by the Federal Internal Revenue Service to the department; and*
 - 11. *Any other information as determined by the department through the promulgation of administrative regulations.*
- (15) The department may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.
- (16) The department shall charge a fee for each license issued and renewed, not to exceed three hundred dollars (\$300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.
- (17) (a) A licensed charitable organization may place its charitable gaming license in escrow if:
 - 1. The licensee notifies the department in writing that it desires to place its license in escrow; and

2. The license is in good standing and the department has not initiated disciplinary action against the licensee.
- (b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under KRS 238.536.
- (c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:
 1. The charitable organization continues to qualify for licensure;
 2. The charitable organization has not engaged in charitable gaming during the escrow period; and
 3. The charitable organization pays a reinstatement fee established by the department.

➔Section 2. This Act takes effect January 1, 2019.

Became law without Governor's signature April 9, 2018.

CHAPTER 85

(HB 261)

AN ACT relating to mining.

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

➔Section 1. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
 - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
 - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
 - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
 - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
 - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
 - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
 - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
 - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
 - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority
 - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
 - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
2. Department of Revenue
 - a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
 - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205

(b) Cabinet for Health and Family Services

1. Office of Health Policy
 - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
 - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
2. Department for Community Based Services
 - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
3. Department for Income Support
 - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
4. Department for Medicaid Services
 - a. Administrative appeal hearings following an external independent third-party review of a Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to the provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization, conducted under authority of KRS 205.646

(c) Justice and Public Safety Cabinet

1. Department of Kentucky State Police
 - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
2. Department of Corrections
 - a. Parole Board hearings conducted under authority of KRS Chapter 439
 - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
 - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
3. Department of Juvenile Justice
 - a. Supervised placement revocation hearings conducted under KRS Chapter 635

(d) Energy and Environment Cabinet

1. Department for Natural Resources
 - a. Surface mining hearings conducted under authority of KRS Chapter 350
 - b. ***Explosives and blasting hearings conducted under authority of KRS 351.315 to 351.375***
2. Department for Environmental Protection

- a. Wild River hearings conducted under authority of KRS Chapter 146
 - b. Water resources hearings conducted under authority of KRS Chapter 151
 - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
 - d. Environmental protection hearings conducted under authority of KRS Chapter 224
 - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
 - 3. Public Service Commission
 - a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) Labor Cabinet
 - 1. Department of Workers' Claims
 - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
 - 2. Kentucky Occupational Safety and Health Review Commission
 - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
- (f) Public Protection Cabinet
 - 1. Kentucky Claims Commission
 - a. Liability hearings conducted under authority of KRS 49.020(1) and 49.040 to 49.180
- (g) Education and Workforce Development Cabinet
 - 1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (h) Secretary of State
 - 1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (i) State universities and colleges
 - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
 - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
 - 3. Campus residency hearings conducted under authority of KRS Chapter 164
 - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
 - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
 - (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
 - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
 - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

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

➔Section 2. KRS 350.0301 is amended to read as follows:

- (1) Any person who considers himself *or herself* aggrieved by any determination made by the cabinet under this chapter may file, in accordance with administrative regulations promulgated by the cabinet under the provisions of this chapter, a petition alleging that the determination is contrary to law or fact and is injurious to him, the grounds and reasons therefor, and demand a hearing. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of the notice unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the determination complained of, or could reasonably have had notice. However, the petitioner shall have the opportunity to contest the validity of an underlying notice of noncompliance in a timely-filed demand for hearing to contest the validity of a cessation order issued for a failure to abate the violation contained in the notice of noncompliance.
- (2) All hearings, other than conferences, under this chapter shall be held before a hearing officer, duly qualified to practice law in the Commonwealth of Kentucky, who may be a full-time employee of the cabinet, serve by contract, or be paid on a per diem basis in the discretion of the cabinet. After the conclusion of the hearing, the hearing officer shall within thirty (30) days make to the secretary a report and recommended order which shall contain a finding of fact and a conclusion of law. If the secretary finds upon written request of the hearing officer that additional time is needed, the secretary may grant an extension. The hearing officer shall serve a copy of his report and recommended order upon all parties of record and their attorney of record to the proceeding, and they shall be granted the right to file exceptions thereto within fourteen (14) days of service. Any party may submit a written response to exceptions within twenty-one (21) days of service of the report and recommended order. Exceptions and responses not timely filed shall be noted and made a part of the record but shall not be considered by the secretary in making a final order. The secretary shall consider the report, exceptions, and recommended order and decide the case. The decision shall be served by mail upon all parties and their attorney of record and shall be a final order of the cabinet.
- (3) Any party to a hearing under this subsection may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of these actions. The record of the hearing shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original.
- (4) All hearings conducted pursuant to this chapter shall be open to the public.
- (5) The cabinet shall promulgate administrative regulations, pursuant to the provisions set forth in this chapter, establishing formal and informal hearing procedures by which any hearing shall, upon the written request of the operator, permittee, or person, be held in the county or regional office where the surface coal mining operation is located, before an impartial hearing officer who is independent of any prosecutorial functions of the cabinet. The administrative regulations shall provide for the conduct of hearings and investigation of any matter relating to the regulation of surface coal mining and reclamation operations ~~and~~ provide for the assessment and payment of civil penalties, ~~including the placement of proposed civil penalty assessments into an escrow account prior to a formal hearing on the amount of the assessment; and provide for a waiver of the placement of the proposed civil penalties into escrow for those individuals who demonstrate with substantial evidence an inability to pay the proposed civil penalties into escrow~~. The procedures developed pursuant to this subsection shall provide that the hearings be held in the most expeditious manner possible within the time constraints established under this chapter. No person who presided at a prior hearing shall either preside at a subsequent hearing or participate in any further decision or subsequent administrative appeal in the same matter.

- (6) The cabinet may promulgate administrative regulations pursuant to the provisions set forth in this chapter establishing procedures for the holding of administrative conferences needed to implement the provisions of this chapter.
- (7) The secretary may designate a deputy to sign any or all final orders of the cabinet, whether the orders are the result of hearing or agreement.

➔Section 3. KRS 350.064 is amended to read as follows:

- (1) After a surface coal mining and reclamation permit application has been approved but before the permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a reclamation bond for performance payable, as appropriate, to the state, and conditional upon faithful performance of all the requirements of this chapter and the permit. The reclamation bond shall cover that area of land within the permit area upon which the applicant will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the cabinet an additional bond or bonds to cover the increments in accordance with this section.
- (2) ~~[The cabinet may accept the reclamation bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the cabinet the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self insure or bond the amount or in lieu of the establishment of a bonding program, as set forth in this section;]~~The cabinet may approve an alternative system that will achieve the objectives and purposes of the bonding program pursuant to this section.

➔Section 4. KRS 350.070 is amended to read as follows:

- (1) Any extensions of the area covered by the permit, except incidental boundary revisions, shall be made by application for another permit or an amendment to the permit.~~[However, extensions of the underground mining area that are not incidental boundary revisions and do not include planned subsidence or other new proposed surface disturbances may be made by application for a major revision to the permit.]~~
- (2) For an amendment, the permittee shall file an application, map, and revised reclamation plan in the same form and with the same content as required for an original application under this chapter. He *or she* shall pay a basic fee set by regulation and bearing a reasonable relationship to the cost of processing the permit application, not to exceed one thousand seven hundred fifty dollars (\$1,750), plus a fee set by regulation, not to exceed seventy-five dollars (\$75), for each acre or fraction of an acre for the increase requested. He *or she* shall file with the cabinet a supplemental bond in the amount to be determined under the provisions of KRS 350.060(11) for each acre or fraction of an acre of the increase approved. This application shall be subject to all of the same requirements as an original application, including, but not limited to, the same public notice, review, and issuance or denial provisions.
- (3) If the cabinet approves a reduction in the acreage covered by the permit, it shall release the bond for each acre reduced, but the bond shall not be reduced below ten thousand dollars (\$10,000). If the cabinet approves a reduction in acreage, it shall transfer the acreage fee for each acre reduced to acreage fees for subsequent permit applications by the permittee.
- (4) The cabinet shall promulgate regulations specifying the permit application information requirements and procedures, including notice and hearing, which shall apply depending on the scale or extent of a permit revision. Any revision which proposes significant alterations in the reclamation plan shall be subject to the notice and hearing requirements as set forth in the regulations of the cabinet. The applicant for a revision shall pay a basic fee set by regulation, not to exceed seven hundred fifty dollars (\$750) for a minor revision and one thousand seven hundred fifty dollars (\$1,750) for a major revision, plus a fee set by regulation not to exceed seventy-five dollars (\$75), for each acre or fraction of an acre included in an incidental boundary revision.
- (5) Incidental boundary revisions shall be deemed minor revisions if they:
 - (a) Do not exceed ten percent (10%) of the initial permit acreage;
 - (b) Are contiguous with the permit acreage;
 - (c) Are within the same watershed as the initial permit acreage;
 - (d) Are required for an orderly continuation of the mining operation;
 - (e) Cover the same coal seam or seams as in the permit;

- (f) Would only involve lands for which the hydrologic and geologic data and the probable hydrologic consequences analysis contained in the permit are applicable to the proposed incidental boundary revision;
 - (g) Would not involve properties designated as unsuitable for mining, or any properties eligible for listing on the National Register of Historic Places;
 - (h) Would not involve any of the special categories of mining listed in 30 C.F.R. Part 785 including, but not limited to, prime farmland and coal preparation plants, unless the approved permit already includes the relevant category;
 - (i) Would not constitute a change in the method of mining; and
 - (j) Would be reclaimed in conformity with the initial reclamation plan.
- (6) For the purpose of this section, the maximum acreage allowed to be added by an incidental boundary revision shall be as follows:
- (a) Surface operations shall be allowed up to twenty (20) acres;
 - (b) ~~Underground operations shall be allowed up to ten percent (10%) of the original permitted acreage of the underground workings or twenty (20) acres, whichever is less;~~
 - ~~(c)~~ Surface disturbances of underground mines including, but not limited to, face-up areas and haul roads, shall be allowed up to twenty (20) acres; **and**
 - ~~(c)(d)~~ The cumulative acreage added by successive revisions shall not exceed the above limitations.

➔SECTION 5. A NEW SECTION OF KRS 350.240 TO 350.280 IS CREATED TO READ AS FOLLOWS:

A person shall not conduct mining for limestone, dolomite, sand, gravel, clay, fluorspar, or other vein minerals without first obtaining a permit from the cabinet. However, no permit shall be required for the excavation of limestone, dolomite, sand, gravel, clay, fluorspar, or other vein minerals by a landowner for personal, noncommercial use if:

- (1) *Fifty (50) tons or less are excavated in twelve (12) successive calendar months;*
- (2) *They are excavated from land owned by the landowner; and*
- (3) *They are used only on the property owned by the landowner, as provided in Article II(a) of Section 6 of this Act.*

➔Section 6. KRS 350.300 is amended to read as follows:

The Interstate Mining Compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

Findings and Purposes

- (a) The party States find that:
 - 1. Mining and the contributions thereof to the economy and well-being of every State are of basic significance.
 - 2. The effects of mining on the availability of land, water and other resources for other uses present special problems which properly can be approached only with due consideration for the rights and interests of those engaged in mining, those using or proposing to use these resources for other purposes, and the public.
 - 3. Measures for the reduction of the adverse effects of mining on land, water and other resources may be costly and the devising of means to deal with them are of both public and private concern.
 - 4. Such variables as soil structure and composition, physiography, climatic conditions, and the needs of the public make impracticable the application to all mining areas of a single standard for the conservation, adaptation, or restoration of mined land, or the development of mineral and other natural resources; but justifiable requirements of law and practice relating to the effects of mining on land, water, and other resources may be reduced in equity or effectiveness unless they pertain similarly from state to state for all mining operations similarly situated.
 - 5. The States are in a position and have the responsibility to assure that mining shall be conducted in accordance with sound conservation principles, and with due regard for local conditions.

(b) The purposes of this compact are to:

1. Advance the protection and restoration of land, water and other resources affected by mining.
2. Assist in the reduction or elimination or counteracting of pollution or deterioration of land, water and air attributable to mining.
3. Encourage, with due recognition of relevant regional, physical, and other differences, programs in each of the party States which will achieve comparable results in protecting, conserving, and improving the usefulness of natural resources, to the end that the most desirable conduct of mining and related operations may be universally facilitated.
4. Assist the party States in their efforts to facilitate the use of land and other resources affected by mining, so that such use may be consistent with sound land use, public health, and public safety, and to this end to study and recommend, wherever desirable, techniques for the improvement, restoration or protection of such land and other resources.
5. Assist in achieving and maintaining an efficient and productive mining industry and in increasing economic and other benefits attributable to mining.

ARTICLE II

Definitions

As used in this compact, the term:

- (a) "Mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of ~~on-site~~ farming or construction *pursuant to Section 5 of this Act*.
- (b) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a Territory or Possession of the United States.

ARTICLE III

State Programs

Each party State agrees that within a reasonable time it will formulate and establish an effective program for the conservation and use of mined land, by the establishment of standards, enactment of laws, or the continuing of the same in force, to accomplish:

1. The protection of the public and the protection of adjoining and other landowners from damage to their lands and the structures and other property thereon resulting from the conduct of mining operations or the abandonment or neglect of land and property formerly used in the conduct of such operations.
2. The conduct of mining and the handling of refuse and other mining wastes in ways that will reduce adverse effects on the economic, residential, recreational or aesthetic value and utility of land and water.
3. The institution and maintenance of suitable programs for adaptation, restoration, and rehabilitation of mined lands.
4. The prevention, abatement and control of water, air and soil pollution resulting from mining, present, past and future.

ARTICLE IV

Powers

In addition to any other powers conferred upon the Interstate Mining Commission, established by Article V of this compact, such Commission shall have power to:

1. Study mining operations, processes and techniques for the purpose of gaining knowledge concerning the effects of such operations, processes and techniques on land, soil, water, air, plant and animal life, recreation, and patterns of community or regional development or change.

2. Study the conservation, adaptation, improvement and restoration of land and related resources affected by mining.
3. Make recommendations concerning any aspect or aspects of law or practice and governmental administration dealing with matters within the purview of this compact.
4. Gather and disseminate information relating to any of the matters within the purview of this compact.
5. Cooperate with the federal government and any public or private entities having interests in any subject coming within the purview of this compact.
6. Consult, upon the request of a party State and within resources available therefor, with the officials of such State in respect to any problem within the purview of this compact.
7. Study and make recommendations with respect to any practice, process, technique, or course of action that may improve the efficiency of mining or the economic yield from mining operations.
8. Study and make recommendations relating to the safeguarding of access to resources which are or may become the subject of mining operations to the end that the needs of the economy for the products of mining may not be adversely affected by unplanned or inappropriate use of land and other resources containing minerals or otherwise connected with actual or potential mining sites.

ARTICLE V

The Commission

(a) There is hereby created an agency of the party States to be known as the "Interstate Mining Commission," hereinafter called "the Commission." The Commission shall be composed of one commissioner from each party State who shall be the Governor thereof. Pursuant to the laws of his party State, each Governor shall have the assistance of an advisory body (including membership from mining industries, conservation interests, and such other public and private interests as may be appropriate) in considering problems relating to mining and in discharging his responsibilities as the commissioner of his State on the Commission. In any instance where a Governor is unable to attend a meeting of the Commission or perform any other function in connection with the business of the Commission, he shall designate an alternate, from among the members of the advisory body required by this paragraph, who shall represent him and act in his place and stead. The designation of an alternate shall be communicated by the Governor to the Commission in such manner as its bylaws may provide.

(b) The commissioners shall be entitled to one vote each on the Commission. No action of the Commission making a recommendation pursuant to Article IV-3, IV-7, and IV-8 or requesting, accepting or disposing of funds, services, or other property pursuant to this paragraph, Articles V(g), V(h), or VII shall be valid unless taken at a meeting at which a majority of the total number of votes on the Commission is cast in favor thereof. All other action shall be by a majority of those present and voting: provided that action of the Commission shall be only at a meeting at which a majority of the commissioners, or their alternates, is present. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

(c) The Commission shall have a seal.

(d) The Commission shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Commission shall appoint an Executive Director and fix his duties and compensation. Such Executive Director shall serve at the pleasure of the Commission. The Executive Director, the Treasurer, and such other personnel as the Commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the Commission.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party States, the Executive Director with the approval of the Commission, shall appoint, remove or discharge such personnel as may be necessary for the performance of the Commission's functions, and shall fix the duties and compensation of such personnel.

(f) The Commission may establish and maintain independently or in conjunction with a party State, a suitable retirement system for its employees. Employees of the Commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the Commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The Commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.

(g) The Commission may borrow, accept or contract for the services of personnel from any State, the United States, or any other governmental agency, or from any person, firm, association or corporation.

(h) The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (g) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant or services borrowed and the identity of the donor or lender.

(i) The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party States.

(j) The Commission annually shall make to the Governor, legislature and advisory body required by Article V(a) of each party State a report covering the activities of the Commission for the preceding year, and embodying such recommendations as may have been made by the Commission. The Commission may make such additional reports as it may deem desirable.

ARTICLE VI

Advisory, Technical, and Regional Committees

The Commission shall establish such advisory, technical, and regional committees as it may deem necessary, membership on which shall include private persons and public officials, and shall cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities. Such committees may be formed to consider problems of special interest to any party States, problems dealing with particular commodities or types of mining operations, problems related to reclamation, development, or use of mine land, or any other matters of concern to the Commission.

ARTICLE VII

Finance

(a) The Commission shall submit to the Governor or designated officer or officers of each party State a budget of its estimated expenditures for such period as may be required by the laws of that party State for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States. The total amount of appropriations requested under any such budget shall be apportioned among the party States as follows: one-half in equal shares; and the remainder in proportion to the value of minerals, ores, and other solid matter mined. In determining such values, the Commission shall employ such available public source or sources of information as, in its judgment, present the most equitable and accurate comparisons among the party States. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of minerals, ores, and other solid matter mined.

(c) The Commission shall not pledge the credit of any party State. The Commission may meet any of its obligations in whole or in part with funds available to it under Article V(h) of this compact: provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under Article V(h) hereof, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

(f) Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII

Entry into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any four or more States. Thereafter, this compact shall become effective as to any other State upon its enactment thereof.

(b) Any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

ARTICLE IX

Effect on Other Laws

Nothing in this compact shall be construed to limit, repeal or supersede any other law of any party State.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating herein, the compact shall remain in full force and effect as to the remaining party States and in full force and effect as to the State affected as to all severable matters.

➔Section 7. KRS 350.518 is amended to read as follows:

- (1) In addition to the provisions of KRS 350.500 to 350.521, each permittee shall submit a permit-specific bond in accordance with KRS 350.060(11) and all administrative regulations promulgated thereunder.
- (2) Each permittee subject to KRS 350.515(1) shall pay to the fund a fee for each ton of coal mined and sold by surface and underground coal mining operations from each permit area. For the purposes of assessing tonnage fees, all permits subject to eligibility for expenditures from the fund shall be assigned to one (1) of the following classifications:
 - (a) Surface coal mining operations, including auger and highwall mining, for which an initial rate of seven and fifty-seven hundredths cents (\$0.0757) per ton of coal shall be paid to the fund;
 - (b) Underground coal mining operations, for which an initial rate of three and fifty-seven hundredths cents (\$0.0357) per ton of coal shall be paid to the fund;
 - (c) Permits that consist of combined surface and underground mining operations shall pay a fee in accordance with the predominant method of coal extraction;
 - (d) All permits previously subject to the voluntary bond pool fund at the time of its repeal by 2013 Ky. Acts ch. 78, sec. 12, shall:
 1. Be excluded from the start-up fee established in KRS 350.515;
 2. Pay the tonnage fees set forth in paragraphs (a) and (b) of this subsection to the fund in lieu of tonnage fees otherwise due under KRS 350.725(2); and
 3. Continue to receive subsidization of the reclamation bonding authorized under KRS 350.500 to 350.521 and the administrative regulations adopted pursuant thereto.The fund shall continue to provide coverage for existing bonds previously issued for them by the voluntary bond pool;
 - (e) Permits which are used exclusively for coal preparation and processing operations, loading activities, disposal of refuse operations, coal haulage and access roads, mine maintenance areas, and other support facilities, and other permits not subject to the provisions of paragraphs (a) and (b) of this subsection as determined by the commission, shall pay an annual fee of ten dollars (\$10) per acre to the fund in equal quarterly installments; and

- (f) Any permits, or expired permits, not subject to the fees in paragraphs (a) to (e) of this subsection shall pay an annual fee of six dollars (\$6) per surface acre to the fund in equal quarterly installments. The fee shall not apply to permits that:
 - 1. Have not been initially disturbed after permit issuance by the permittees;
 - 2. Contain underground acreage only; or
 - 3. Have received an initial bond release in accordance with KRS 350.093(4)(a).
- (3) (a) The commission shall include in the fund under the terms set forth in subsection (2)(d) of this section, future permits obtained by entities that are members of the voluntary bond pool fund at the date of the establishment of the fund, provided the entity and the entity's owners seeking permit coverage have:
 - 1. Never committed a violation for mining without having first obtained the required permit under this chapter;
 - 2. Never forfeited a bond or had a permit revoked under this chapter;
 - 3. Never avoided forfeiture of a bond under this chapter because of a surety-performed reclamation work to avoid forfeiture;
 - 4. Never been determined to have demonstrated a pattern of violations pursuant to KRS 350.028(4), 350.130(3), or 350.465(3)(f);
 - 5. Not been issued more than four (4) orders for cessation and immediate compliance pursuant to a failure to perform remediation within the time or under the terms specified by the cabinet in a notice of noncompliance and order for remedial measures in the most recent thirty-six (36) months of operation and the order was abated as ordered by the cabinet in a timely manner and was not for a violation of contemporaneous reclamation requirements as prescribed in administrative regulations promulgated by the cabinet and have reached final dispositions;
 - 6. Not committed more than three (3) violations for contemporaneous reclamation requirements as prescribed in administrative regulations promulgated by the cabinet in the most recent thirty-six (36) months of operation and the order was abated as ordered by the cabinet in a timely manner and have reached final disposition, except the commission may for good cause shown and by unanimous vote exclude violations that have been terminated by the cabinet with no civil penalty;
 - 7. Not committed more than eight (8) violations of surface mining permanent program requirements set forth in this chapter or any performance standards for mining established in administrative regulations promulgated by the cabinet pursuant to this chapter and which have reached final disposition on any one (1) permit in any twelve (12) month period of the most recent thirty-six (36) months of operation, except the commission may for good cause shown and by unanimous vote exclude the twelve (12) month period on one (1) permit during which the largest number of violations occurred and may for good cause shown and by unanimous vote exclude violations that were timely abated and terminated by the cabinet with no civil penalty; or
 - 8. Not had civil penalties under this chapter or imposed pursuant to administrative hearing of the cabinet remaining unpaid more than thirty (30) days after they were due and payable, within the most recent thirty-six (36) months of operation.
- (b) The existing members of the voluntary bond pool are deemed to qualify as members thereof under the provisions of this subsection, and the provisions of this subsection shall only apply to the existing members of the voluntary bond pool prospectively from March 22, 2013.
- (4) The increase in the total amount of bonds issued to any one (1) member of the voluntary bond pool under subsection (3) of this section shall not exceed twenty-five percent (25%) of the greater of:
 - (a) The member's aggregate amount of bonds in force and issued by the voluntary bond pool as of March 22, 2013; or
 - (b) The total of that member's aggregate amount of bonds in force and issued by the voluntary bond pool as of March 22, 2013, plus fifty-five percent (55%) of that total.
- (5) The commission may consider for inclusion in the fund under the terms set forth in subsection (2)(d) of this section permits obtained by an entity which is not a participant of the fund as of March 22, 2013, provided the

entity and the entity's owners can meet eligibility standards established in administrative regulations promulgated by the commission.

- (6) Any permits accepted into the fund under the terms set forth in subsection (3) of this section shall require payment of a permit-specific penal bond computed at a rate of two thousand dollars (\$2,000) for each acre or fraction of an acre included in the proposed permit area, and shall pay the actuarially determined tonnage rates set forth in subsection (2)(a) to (c) of this section.
- (7) Changes to the rates set forth in this section and others, including those set out in subsection (2)(d) of this section, shall be made by the commission through administrative regulation and shall be in an amount sufficient to maintain actuarial soundness of the fund in accordance with the annual actuarial study.
- (8) Reporting and payment of fees shall be made in accordance with administrative regulations promulgated by the commission. The commission may request and review documents and reports from the Kentucky Department for Natural Resources and the United States Office of Surface Mining Reclamation and Enforcement to verify production records submitted by permittees.
- (9) Upon the receipt of notification from the commission that a permittee is in arrearage in the payment of any fees assessed to a permit, the cabinet shall forthwith suspend the permit. A suspension of a permit under this subsection may be appealed pursuant to the hearing provisions of KRS 350.0301.
- (10) A permit suspended by the cabinet under subsection (9) of this section shall have that suspension immediately lifted upon notification by the commission that the arrearage has been paid in full by the permittee.
- ~~(11) Penalties collected pursuant to KRS 350.990(1) in excess of eight hundred thousand dollars (\$800,000) in any fiscal year shall be deposited in the following manner:~~
 - ~~(a) Fifty percent (50%) shall be applied to the fund for purposes set forth in this chapter; and~~
 - ~~(b) Fifty percent (50%) shall be applied to the abandoned mine land supplemental fund established in KRS 350.139.~~
- ~~(12)~~ Any person who considers himself or herself to be aggrieved by any determination made by the commission under KRS 350.500 to 350.521 shall have all of the rights and remedies provided in KRS 350.0301.

➔Section 8. KRS 350.990 is amended to read as follows:

- (1) Any permittee, person, or operator who violates any of the provisions of this chapter or administrative regulations promulgated pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided in this chapter, or who violates any determination or order issued pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars (\$5,000) for the violation, and an additional civil penalty of not more than five thousand dollars (\$5,000) for each day during which the violation continues, and in addition, may be enjoined from continuing the violations provided in this section. Any permittee, operator, or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars (\$750) for each day during which the violation continues. Any person issued an order pursuant to KRS 350.130(4) shall be assessed a civil penalty of not more than five thousand dollars (\$5,000) for each violation cited in the underlying notice of noncompliance issued therewith. No separate civil penalty shall be assessed for the order issued pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as an administrative regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of the method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant

thereto. All sums recovered shall be placed in the State Treasury, except those moneys collected in excess of eight hundred thousand dollars (\$800,000) in any fiscal year shall be deposited *into the restricted fund account of the Office of the Commissioner of the Department for Natural Resources to be disbursed for the purposes set out in KRS Chapters 350, 351, and 352*~~[fifty percent (50%) in the reclamation guaranty fund for purposes set forth in KRS 350.500 to 350.521 and 350.595 and fifty percent (50%) to the supplemental fund established under KRS 350.139(1), and used for the purposes of that section]~~. All moneys previously deposited in the abandoned mine land enhancement fund shall be redeposited in the reclamation guaranty fund.

- (2) Any person or operator who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person or operator who engages in other mining operations, without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars (\$5,000) nor more than twenty-five thousand dollars (\$25,000) and in addition, may be enjoined from continuing the violations. Each day shall constitute a separate violation. In addition to the foregoing penalties, any permittee, person, or operator who fails to abate a violation of KRS 350.060 or KRS 350.029 or KRS 350.057, as noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement, shall be assessed an additional civil penalty of not less than seven hundred fifty dollars (\$750) for each day during which the violation continues. However, the penalties provided in subsection (1) of this section shall apply in lieu of the penalties provided in this subsection where an operator or permittee through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.
- (3) The cabinet shall bring an action for the recovery of penalties and bring an action for a restraining order, temporary or permanent injunction, against any permittee, operator, or person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination issued pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.
- (4) Any permittee, operator, or person who knowingly and willfully violates any of the provisions of this chapter, except as provided in subsection (5) of this section, or any determination or order issued pursuant to the sections of this chapter which have become final, shall be guilty of a Class A misdemeanor. Each day on which the violation occurs may constitute a separate offense.
- (5)
 - (a) Any person or operator who, in violation of KRS 350.060(1)(a) willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet, or any person or operator who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person or operator who willfully and knowingly engages in other mining operations without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, with the intent to violate the laws, shall be guilty of a Class D felony.
 - (b) Any person or operator who in violation of KRS 350.060(1)(b) willfully and knowingly receives, transports, sells, conveys, transfers, trades, exchanges, donates, purchases, delivers, or in any way derives benefit from coal removed from any surface mining operations conducted in violation of KRS 350.060(1)(a) or 350.057 shall be guilty of a Class D felony.
- (6) Any person who violates any of the provisions of KRS 350.600 or administrative regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars (\$25,000). Each day of continuing violation shall be deemed a separate violation.
- (7) Any permittee, operator, or person who knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a Class A misdemeanor.
- (8) Except as permitted by law, any permittee, operator, or person who willfully and knowingly resists, prevents, impedes, or interferes with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall be guilty of a Class A misdemeanor.

- (9) When a corporate permittee violates any provision of this chapter or administrative regulation promulgated pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.
- (10) Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky Department of Insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.
- (11) The cabinet, upon written request by any permittee, person, or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by administrative regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet's Division of Abandoned Mine Lands shall have the authority to approve proposed in-kind projects and to recommend projects to the cabinet, and shall determine whether the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel, and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person, permittee, or operator for the full amount of the assessed penalty. The cabinet may prepare and promulgate administrative regulations as are necessary to implement and administer the provisions of this subsection.

➔Section 9. KRS 351.090 is amended to read as follows:

- (1) The Governor shall appoint an adequate number of mine safety specialists to ensure at least two (2) inspections annually at all surface mines, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional mine safety specialists to enable the commissioner to provide adequate monitoring of coal mines where conditions or management policy dictate that more inspections are needed to ensure the safety of miners. Underground mines shall be inspected at least six (6) times annually; except that the commissioner shall have the discretion to require up to three (3) of the six (6) required mine safety inspections to be mine safety analysis visits pursuant to KRS 351.242. At least one (1) inspection shall be a full electrical inspection. One (1) or more of the appointees shall be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety specialists to perform safety analysis and safety instruction. The term of office of each mine safety specialist shall be during the period of capable, efficient service and good behavior.
- (2) All mine safety specialists shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, ~~and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060,~~ and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.
- (3) No person shall be appointed to the office of mine safety specialist unless he or she holds a current mine foreman's certificate. A person appointed as mine safety specialist shall pass an examination administered by the department. The commissioner may recommend to the Governor applicants for the positions of mine safety specialist who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.
- (4) Mine safety specialists shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.
- (5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by mine safety specialists who shall verify upon oath that the expenses were incurred in the discharge of their official duties.

- (6) Each mine safety specialist shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.
- (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.
- (8) Each mine safety specialist shall provide authorization to the division to perform a criminal background check by means of a fingerprint check by the Department of Kentucky State Police. The results of the state criminal background check shall be sent to the director of the division. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

➔Section 10. KRS 351.182 is amended to read as follows:

- (1) All applicants for certification as new miners and all initial applicants for all other certifications provided for in this chapter shall provide proof of drug- and alcohol-free status prior to certification in accordance with the provisions of this section.
- (2) Proof of drug- and alcohol-free status shall be provided in one (1) of two (2) methods:
 - (a) By participation in a drug and alcohol testing program offered by the division and paid for by the applicant, in accordance with this section and KRS 351.183; or
 - (b) By the submission of drug and alcohol test results from other sources, as provided in KRS 351.183(2).
- (3) If a newly certified miner gains employment in the coal industry, the initial employer shall reimburse the certified miner for the cost of one (1) drug and alcohol test required by this section and KRS 351.183, 351.184, and 351.185.
- (4) If the applicant is currently certified in any category other than that for which he is applying by the division and the applicant is currently employed in the coal industry, the applicant's employer shall reimburse the applicant for the cost of one (1) drug and alcohol test required by this section and KRS 351.183, 351.184, and 351.185.
- (5) The fee charged to an applicant for the drug and alcohol tests offered by the division shall not exceed the actual cost of collection, analysis, and medical review officer (MRO) review.
- (6) The division shall provide, at each site of examinations for the certifications provided for in Chapter 351, a breath alcohol testing device and a person certified in the operation of the breath alcohol testing device. The breath alcohol test shall be administered prior to examination to determine the applicant's alcohol-free status. The division may satisfy the requirement to furnish an alcohol testing device and certified personnel by:
 - (a) The use of equipment and appropriately certified personnel of the division;
 - (b) A memorandum of agreement with state or local police agencies for the provision of equipment and appropriately trained personnel at the examination site; or
 - (c) Inclusion of breath alcohol testing as part of the contract to provide drug testing and collection services set out in KRS 351.183(1).
- (7) A breath alcohol concentration of .04 shall be the maximum acceptable level of concentration for participation in the examination and subsequent certification.
- (8) Except for an alternative testing protocol provided for post-accident victims under KRS ~~352.180(5) to (7)~~ **352.180(6) to (8)**, the minimum testing protocol acceptable for the establishment of drug-free status for certification under KRS Chapter 351 shall be at least a ten (10) panel urine test that shall include testing for the following substances:
 - (a) Amphetamines;
 - (b) Cannabinoids/THC;
 - (c) Cocaine;
 - (d) Opiates;
 - (e) Phencyclidine (PCP);
 - (f) Benzodiazepines;

- (g) Propoxyphene;
- (h) Buprenorphine;
- (i) Methadone;
- (j) Barbiturates; and
- (k) The remaining panels to be used in the urine test shall be set by order of the Mine Safety Review Commission no later than June 1 of each year.

➔Section 11. KRS 351.315 is amended to read as follows:

- (1) No person shall detonate explosives in any blasting operation in which more than five (5) pounds of explosives or the equivalent are used in a single charge or in which less than five (5) pounds of explosives are used by a regular user, excluding blasting for agriculture and underground coal, unless he is licensed by the department. The department shall issue a license to use explosives to any person who:
 - (a) Has worked in blasting operations for at least twenty-four (24) months under the immediate supervision of an experienced blaster or has worked in blasting operations for twelve (12) months and has completed a formal training program approved by the department; and
 - (b) Has passed an examination prescribed by the department which shall test the examinee's practice of blasting operations and the storage, moving, handling, and detonation of explosives.
- (2) Application for license shall be in writing upon a form furnished by the department and shall be accompanied by a photograph of the applicant. If the applicant is successful in passing the examination, a license indicating his competency to detonate explosives shall be issued upon the payment of a fee of twenty-five dollars (\$25).
- (3) Any person who is a licensed blaster in another state where the qualifications prescribed at the time of licensing were, in the opinion of the commissioner, equal to those prescribed in the Commonwealth at the date of application, and where reciprocal licensing privileges satisfactory to the department are granted to licensees of the Commonwealth, may be granted a license without an examination, upon the payment of a fee.
- (4) Each blaster shall be required to renew his license every three (3) years by application to the department, which application shall be accompanied by a fee and subject to the following training requirements:
 - (a) Each applicant for renewal of a Kentucky blaster's license shall furnish proof that during the preceding three (3) years, the blaster annually has attended a minimum of eight (8) hours of department-approved blaster's training. No more than four (4) hours of the annual blaster training may be attributed to attending a conference unless otherwise approved by the department; and
 - (b) Each applicant for renewal of a limited Kentucky blaster's license shall furnish proof that during the preceding three (3) years, the blaster has attended a minimum of four (4) hours of blaster's training approved by the department.
- (5) The department shall not issue a blaster's license to any person not entitled to transport or receive explosives under existing federal law, including persons who:
 - (a) Are less than twenty-one (21) years of age; or
 - (b) Have been convicted in any court of a crime punishable by imprisonment for a term exceeding one (1) year, unless the conviction has been specifically exempted by the United States Bureau of Alcohol, Tobacco and Firearms or its successor.
- (6) All fees provided in this section shall be set by the department by administrative regulation; however, the fee for an application shall not exceed forty dollars (\$40), the fee for license renewal shall not exceed sixty dollars (\$60), and the fee for reciprocal licensing shall not exceed sixty dollars (\$60).
- (7) The commissioner may suspend any license for due cause, but no license may be revoked until the licensee has been granted adequate opportunity for a hearing *before the cabinet's Office of Administrative Hearings* ~~conducted in accordance with KRS Chapter 13B~~.

➔Section 12. KRS 351.345 is amended to read as follows:

- (1) The commissioner, before revoking any license shall set the matter down for a hearing *before the cabinet's Office of Administrative Hearings* ~~to be conducted in accordance with KRS Chapter 13B~~.
- (2) No person shall blast once his license has been revoked by the department.

➔Section 13. KRS 351.350 is amended to read as follows:

- (1) If upon inspection an authorized representative of the commissioner finds that an explosive user or seller has violated any requirement of KRS 351.315 to 351.375, a citation shall be issued to the violator. Each citation shall describe the alleged violation, establish the time period permitted for correction by fixing a reasonable date by which the alleged violation shall be eliminated, if applicable, and propose the civil penalty to be paid. If within fifteen (15) working days from the receipt of the citation the explosive user or seller fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed a final order and not be subject to review by any court or agency.
- (2) If the explosive user or seller notifies the commissioner that he intends to challenge a citation issued under KRS 351.315 to 351.375, then it shall be the duty of the department or the ***cabinet's Office of General Counsel***~~[Attorney General]~~ upon the request of the commissioner, to bring an action for the recovery of the penalties provided for herein.
- (3) It shall be the duty of the ***cabinet's Office of General Counsel***~~[Attorney General]~~, upon the request of the commissioner, to bring an action for a restraining order, temporary or permanent injunction against any operator or other person violating or threatening to violate any of the provisions of KRS 351.315 to 351.375.

➔Section 14. KRS 352.170 is amended to read as follows:

- (1) All underground mines shall be worked exclusively by the use of approved electric lamps for personal lighting.
- (2) A mine operator shall provide an MSHA-approved, handheld, multigas detector that can measure methane, oxygen, and carbon monoxide to each group of two (2) or more miners working in close proximity of each other underground, the foreman, fireboss, and to each person who works alone, such as pumpers, examiners, and outby miners. The mine operator shall make available one (1) multigas detector at the working face for use by any miner working on the section. Miners shall be trained in the proper use and calibration of the multigas detectors and shall document that the training has been provided. Signs shall be prominently posted at places miners gather with instructions on the proper use of multi-gas detectors.
- (3) No person shall at any time carry into any mine any intoxicants. No person shall at any time enter any underground mine with matches, ***lighters***, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved, ***including but not limited to electronic cigarettes, cigars, or any component that heats liquids or other material to produce vapor.***~~and~~ The licensee shall at frequent intervals search, or cause to be searched, any person entering or about to enter the mine or inside the mine, to prevent the person from taking, carrying, or using the articles therein.

➔Section 15. KRS 352.180 is amended to read as follows:

- (1) (a) ***The superintendent of a mine or, if he or she is absent, the mine manager, or, if he or she is absent, the mine foreman in charge of the mine or his or her designee, shall, within fifteen (15) minutes of having actual knowledge of the occurrence of an accident as defined in 30 C.F.R. sec. 50.2(h)(1) to (9), and having access to the communication system as required under KRS 352.630(3), give notice to the department and to the representative of the miner, stating the particulars of the accident.***
 (b) ***No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger***~~[Whenever a serious physical injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he is absent, the mine foreman in charge of the mine or his designee, shall within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under KRS 352.630(3) give notice to the department and to the representative of the miner, stating the particulars of the accident. No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger].~~
- (2) ***An occupational injury, as defined in 30 C.F.R. sec. 50.2(e), shall be reported in writing to the department within ten (10) business days on the cabinet-approved occupational injury form.***
- (3) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine safety specialist shall immediately go to the scene of the accident and make an investigation and suggestions and

render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.

- (4)~~(3)~~ The record of the investigations shall be preserved with the other records of the commissioner's office. To aid in making the investigations, the commissioner or the mine safety specialist may compel the attendance of witnesses and administer oaths.
- (5)~~(4)~~ Failure to comply with the reporting requirements set forth in **subsection (1)** of this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars (\$10,000) nor more than one hundred thousand dollars (\$100,000).
- (6)~~(5)~~ The Division of Mine Safety may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The director or his or her designee may order the testing of certified persons who:
- (a) Were working in the immediate area of the accident; or
 - (b) In the judgment of the director or his designee, may reasonably have contributed to or witnessed the accident or fatality.
- (7)~~(6)~~ The post-accident testing permitted by subsection (6)~~(5)~~ of this section shall:
- (a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;
 - (b) Be paid for by the Division of Mine Safety; and
 - (c) Be performed on samples obtained within eight (8) hours of the accident.
- (8)~~(7)~~ Toxicology screens and eleven-panel drug testing shall be performed on victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily fluids.
- (9)~~(8)~~ The commissioner or his or her authorized representative may compel the attendance of witnesses and administer oaths to investigate allegations of unsafe mining conditions or violations of mining laws even if no accident or injury has occurred.

➔Section 16. The following KRS section is repealed:

351.380 Agreements with Natural Resources and Environmental Protection Cabinet.

Signed by Governor April 2, 2018.

CHAPTER 86

(HB 218)

AN ACT relating to insurance coverage for autism benefits.

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

➔Section 1. KRS 304.17A-142 is amended to read as follows:

- (1) *As used in this section unless the context requires otherwise:*
- (a) *"Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior;*
 - (b) *"Autism services provider" means any licensed person, entity, or group that provides treatment of autism spectrum disorders;*

- (c) *"Autism spectrum disorder" means any of the autism spectrum disorders or pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders ("DSM") published by the American Psychiatric Association;*
 - (d) *"Diagnosis of autism spectrum disorders" means medically necessary assessments, evaluations, or tests to diagnose whether an individual has any of the autism spectrum disorders, including testing tools which shall be appropriate to the presenting characteristics and age of the individual and be empirically validated for autism spectrum disorders to provide evidence that meets the criteria for autism spectrum disorder in the most recent DSM published by the American Psychiatric Association; and*
 - (e) *"Treatment for autism spectrum disorders" includes the following care for an individual diagnosed with an autism spectrum disorder:*
 - 1. *Medical care services provided by a licensed physician, an advanced registered nurse practitioner, or other licensed health care provider;*
 - 2. *Habilitative or rehabilitative care, including professional counseling and guidance services, therapy, and treatment programs, including applied behavior analysis, that are necessary to develop, maintain, and restore, to the maximum extent practicable, the functioning of an individual;*
 - 3. *Pharmacy care, if covered by the plan, including medically necessary medications prescribed by a licensed physician or other health-care practitioner with prescribing authority and any medically necessary health-related services to determine the need or effectiveness of the medications;*
 - 4. *Psychiatric care, including direct or consultative services, provided by a psychiatrist licensed in the state in which the psychiatrist practices;*
 - 5. *Psychological care, including direct or consultative services, provided by an individual licensed by the Kentucky Board of Examiners of Psychology or by the appropriate licensing agency in the state in which the individual practices;*
 - 6. *Therapeutic care services provided by licensed speech therapists, occupational therapists, or physical therapists; and*
 - 7. *Applied behavior analysis prescribed or ordered by a licensed health or allied health professional.*
- (2) *All health benefit plans issued or renewed on or after the effective date of this Act*~~[A large group health benefit plan]~~ *shall provide coverage*~~[of an individual between the ages of one (1) through twenty one (21) years of age, as required by subsection (2) of this section,]~~ *for the diagnosis and treatment of autism spectrum disorders.* ~~[To the extent that the diagnosis and treatment of autism spectrum disorders are not already covered by a health insurance policy, coverage under this section shall be included in health benefit plans that are delivered, executed, issued, amended, adjusted, or renewed within the state on or after thirty (30) days after January 1, 2011.]~~ *An insurer shall not terminate coverage, or refuse to deliver, execute, issue, amend, adjust, or renew coverage, to an individual solely because the individual is diagnosed with or has received treatment for any of the autism spectrum disorders.*
- ~~[(2) Coverage under this section shall be subject to a maximum annual benefit per covered individual as follows:~~
- ~~(a) For individuals between the ages of one (1) through their seventh birthday, the maximum annual benefit shall be fifty thousand dollars (\$50,000) per individual;~~
 - ~~(b) For individuals between the ages of seven (7) through twenty one (21), the maximum benefit shall be one thousand dollars (\$1,000), per month per individual; and~~
 - ~~(c) These limits shall not apply to other health conditions of the individual and services for the individual not related to the treatment of an autism spectrum disorder.]~~
- (3) Coverage under this section shall not be subject to any *maximum annual benefit limit, including any* limits on the number of visits an individual may make to an autism services provider.
 - (4) Coverage under this section may be subject to copayment, deductible, and coinsurance provisions of a health benefit plan that are no less favorable than those that apply to other medical services covered by the health benefit plan.

- (5) This section shall not be construed as limiting benefits that are otherwise available to an individual under a health benefit plan.
- (6) Except for inpatient services, if an individual is receiving treatment for autism spectrum disorders:
- (a) An insurer shall have the right to request a utilization review of that treatment not more than once every twelve (12) months, unless the insurer and the individual's licensed physician, licensed psychologist, or licensed psychological practitioner agree that a more frequent review is necessary. The cost of obtaining any review shall be borne by the insurer;
 - (b) Upon request of the reimbursing insurer, an autism services provider shall furnish medical records, clinical notes, or other necessary data that substantiate that initial or continued treatment or services that are medically necessary and are resulting in improved clinical status;
 - (c) When treatment is anticipated to require continued services to achieve demonstrable progress, the insurer may request a treatment plan consisting of diagnosis, proposed treatment by type, frequency, anticipated duration of treatment, anticipated outcomes stated as goals, and the frequency by which the treatment plan will be updated; and
 - (d) The treatment plan shall contain specific cognitive, social, communicative, self-care, or behavioral goals that are clearly defined, directly observed, and continually measured and that address the characteristics of the autism spectrum disorder.
- (7) ~~[This section shall not be construed as requiring coverage for treatment of autism spectrum disorders for individuals covered under an individual or small group health benefit plan, except as provided by KRS 304.17A-143.]~~
- ~~(8)~~ ~~(a)~~ Nothing in this section~~[and KRS 304.17A-141 and 304.17A-143]~~ shall be construed as:
- 1. Limiting, replacing, or otherwise affecting any obligation to provide services to an individual under an individualized service plan or other publicly funded program; ~~or~~ ~~[-]~~
 - 2. ~~[Nothing in this section and KRS 304.17A-141 and 304.17A-143 shall be construed as]~~ Requiring a health benefit plan to provide benefits for services that are included in an individualized family service plan, an individualized education program, an individualized service plan, or other publicly funded programs.
- ~~(b)~~ The coverage mandated in this section~~[and KRS 304.17A-141 and 304.17A-143]~~ shall be in addition to any services which an individual is entitled to receive under any such publicly funded programs.
- ~~(8)~~ ~~(9)~~ No reimbursement is required under this section for services, supplies, or equipment:
- (a) For which the insured has no legal obligation to pay in the absence of this or like coverage;
 - (b) Provided to the insured by a publicly funded program;
 - (c) Performed by a relative of an insured for which, in the absence of any health benefits coverage, no charge would be made; and
 - (d) For services provided by persons who are not licensed as required by law.

➔Section 2. The following KRS sections are repealed:

304.17A-141 Definitions for KRS 304.17A-141, 304.17A-142, and 304.17A-143.

304.17A-143 Coverage for treatment of autism in the individual and small group market -- Limitation -- Definitions.

➔Section 3. This Act takes effect January 1, 2019.

Signed by Governor April 2, 2018.

AN ACT relating to government contracts.

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

➔SECTION 1. A NEW SECTION OF KRS 45A.690 TO 45A.725 IS CREATED TO READ AS FOLLOWS:

- (1) *The head of a contracting body, which includes constitutional officers, shall not award a personal service contract for legal services that provides for payment by contingency fee unless, prior to the award, the head of the contracting body determines in writing:*
 - (a) *The contingency fee is both cost-effective and in the public interest;*
 - (b) *Sufficient and appropriate legal and financial resources do not exist within the contracting body;*
 - (c) *The amount of time and labor required to perform the requested services;*
 - (d) *The novelty, complexity, and difficulty of the matter;*
 - (e) *The skill required to perform the requested services properly;*
 - (f) *The geographic area where the legal services are to be provided; and*
 - (g) *The experience desired for the particular kind of legal services to be provided.*
- (2) *The head of the contracting body or his or her designee shall participate in reviewing and evaluating the responses to the requests for proposals and discussions with offerors.*
- (3) *A contingency fee shall not exceed:*
 - (a) *Twenty percent (20%) of the amount recovered up to ten million dollars (\$10,000,000);*
 - (b) *Fifteen percent (15%) of the amount recovered between ten million dollars (\$10,000,000) and fifteen million dollars (\$15,000,000);*
 - (c) *Ten percent (10%) of the amount recovered between fifteen million dollars (\$15,000,000) and twenty million dollars (\$20,000,000); and*
 - (d) *Five percent (5%) of the amount recovered of twenty million dollars (\$20,000,000) or more.*
- (4) *A contingency fee shall not exceed twenty million dollars (\$20,000,000), regardless of the number of actions or proceedings or the number of attorneys or law firms involved in the matter, and exclusive of any costs and expenses provided for by the contract and actually incurred by the legal services contractor.*
- (5) *A contingency fee shall be payable only from money that is actually received pursuant to a judgment or settlement agreement, and any judgment or settlement funds shall be disbursed in accordance with Section 2 of this Act.*
- (6) *During the contract period and any extension:*
 - (a) *The head of the contracting body or his or her designee shall retain control over the course and conduct of the case and shall retain veto authority over any decision made by the contract attorney;*
 - (b) *The head of the contracting body or his or her designee with authority over the contract shall:*
 1. *Attend all settlement conferences;*
 2. *Be personally involved in overseeing the litigation; and*
 3. *Have exclusive decision-making power regarding any settlement of the matter for which the contract was entered; and*
 - (c) *Any opposing party to the matter for which the contract was entered into may directly contact the head of the contracting body or his or her designee with authority over the contract, without having to notify the contract attorney.*
- (7) *The Finance and Administration Cabinet shall develop a standard addendum to be added to each personal service contract for legal services to include the terms of this section.*
- (8) (a) *Within five (5) business days after the contract award, the Finance and Administration Cabinet shall post on its Web site each personal service contract for legal services that provides for payment by contingency fee and the accompanying written determinations described in subsection (1) of this*

section. The contract and accompanying determinations shall remain on the Web site during the duration of the contract and any extension.

- (b) *Any payment of contingency fees shall be posted on the contracting body's Web site within fifteen (15) days after the payment of such contingency fees to the legal services contractor and shall remain posted on the Web site for at least three hundred sixty-five (365) days.*
- (9) (a) *In addition to the information required of each contingency fee contract by the Kentucky Model Procurement Code and KRS 45A.695, a contractor awarded a personal service contract for legal services that provides for payment by contingency fee shall maintain detailed current records, including documentation of:*
 - 1. *Expenses;*
 - 2. *Disbursements;*
 - 3. *Charges and credits;*
 - 4. *Underlying receipts and invoices; and*
 - 5. *Any other financial transactions that concern the attorney services rendered under the contract.*
- (b) 1. *All records described in this subsection shall become public records subject to KRS 61.870 to 61.884 after a judgment or agreement is entered in the case and all appeals have been exhausted, but shall not be public records until that time.*
- 2. *Any information that is subject to an evidentiary privilege and is contained within any record described in this subsection shall not be a public record. The privileged information shall be redacted before any public disclosure of the record.*
- (10) (a) *The Finance and Administration Cabinet and the contracting body shall submit a joint report to the Government Contract Review Committee by September 1 of each year identifying all contingency fee contracts for legal services:*
 - 1. *Awarded in the previous fiscal year;*
 - 2. *Active in the previous fiscal year, but awarded in prior fiscal years; or*
 - 3. *Concluded in the previous fiscal year.*
- (b) *For each contract, the report shall include:*
 - 1. *The written determinations made under subsection (1) of this section;*
 - 2. *Any determination made that the contract was not to be procured through the request for proposal process; and*
 - 3. *Any determination made that the contract may be entered into despite a finding of disapproval by the committee.*
- (c) *In addition, the report shall describe:*
 - 1. *The name of the attorney or law firm with whom the contract was made;*
 - 2. *The nature and status of the legal matter that is the subject of the contract;*
 - 3. *The name of the parties to the legal matter that is the subject of the contract;*
 - 4. *The amount of recovery, if any; and*
 - 5. *The amount of the contingency fee paid, if any.*
- (12) *The common law authority of any duly elected statewide constitutional officer is specifically abrogated to the extent it is inconsistent with the provisions of this section.*

➔Section 2. KRS 48.005 is amended to read as follows:

- (1) The General Assembly hereby finds and declares that:

- (a) Public accountability for funds or other assets recovered in a legal action by or on behalf of the general public, the Commonwealth, or its duly elected statewide constitutional officers is appropriate and required, whether the character of the assets or funds recovered is public or private;
 - (b) Accountability for assets or funds recovered by duly elected statewide constitutional officers is essential to the public trust, and is even more critical when that officer was a party to the action that resulted in the recovery by virtue of the public office he or she holds;
 - (c) Public accountability demands the applicability of the *Kentucky Model Procurement Code, KRS Chapter 45A*, Kentucky Open Records Law, KRS 61.870 to 61.884, and the Kentucky Open Meetings Law, KRS 61.805 to 61.850, so that the actions of individuals or agencies who are charged with the administration of funds or other assets are conducted in full view, and are open to public scrutiny; and
 - (d) The power to appropriate funds for public purposes is solely within the purview of the legislative branch of government, and the General Assembly, as a steward of the budgetary process, shall take steps to assure that future settlements are handled in a manner that assures maximum accountability to the citizens of the Commonwealth and their duly elected legislative representatives.
- (2) Therefore, any other provision of the common law or statutory law to the contrary notwithstanding:
- (a) The provisions of subsection (3) of this section shall apply whenever the Attorney General or other duly elected statewide constitutional officer is a party or has entered his appearance in a legal action on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, and a disposition of that action has resulted in the recovery of funds or assets to be held in trust by the Attorney General or other duly elected statewide constitutional officer or a person, organization, or entity created by the Attorney General or the Commonwealth, through court action or otherwise, to administer the trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes;
 - (b) Except as otherwise provided in paragraph (a) of this subsection, the provisions of subsection (4) of this section shall apply when any funds or assets of any kind or nature whatsoever, including but not limited to public funds as defined in KRS 446.010 and private funds or assets are recovered by judgment or settlement of a legal action by or on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions filed by a duly elected statewide constitutional officer under that officer's statutory or common law authority.
- (3) Whenever the Attorney General or other duly elected statewide constitutional officer is a party to or has entered his appearance in, a legal action on behalf of the Commonwealth of Kentucky, including ex rel. or other type actions, and a disposition of that action has resulted in the recovery of funds or assets to be held in trust by the Attorney General or other duly elected statewide constitutional officer or by a person, organization, or entity created by the Attorney General, or the Commonwealth, through court action or otherwise, to administer the trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes, those funds shall be deposited in the State Treasury and the funds or assets administered and disbursed by the Office of the Controller.
- (4) The Office of Attorney General may first recover its reasonable costs of litigation, as determined by the court and approved by the secretary of the Finance and Administration Cabinet. After recovering the reasonable costs of litigation, any required consumer restitution or payments shall be made. All remaining funds shall be deposited in the general fund surplus account. Any costs recovered under this subsection shall be reported to the Interim Joint Committee on Appropriations and Revenue.
- (5) The common law, including the common law authority of any duly elected statewide constitutional officer, is specifically abrogated to the extent it is inconsistent with the provisions of this section.
- (6) Notwithstanding any statute or common law to the contrary, and except as provided in this subsection, an elected statewide constitutional officer or any other state official or agency shall not file or participate as a plaintiff, petitioner, party, intervening party, attorney, or amicus curiae in any litigation challenging the constitutionality of this section. State funds and employee time shall not be expended by any person or agency in support of such a challenge. If the constitutionality of this section is challenged, the Finance and Administration Cabinet shall be the sole named respondent in that litigation, and shall consult with the Legislative Research Commission regarding defense of that litigation.

➔Section 3. KRS 45A.020 is amended to read as follows:

- (1) This code shall apply to every expenditure of public funds by this Commonwealth *and every payment by contingency fee* under any contract or like business agreement, excepting only that this code shall not apply to

contracts or like business agreements between the Commonwealth and its political subdivisions or other governments, except as provided in KRS 45A.295 to 45A.320. It shall also apply to the disposal of state property.

- (2) Since this code is a general act intended to provide model coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction of the subsequent legislation can be reasonably avoided.

➔Section 4. KRS 45A.030 is amended to read as follows:

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

- (1) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted;
- (2) "Change order" means a written order signed by the purchasing officer, directing the contractor to make changes that the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor;
- (3) "Chief purchasing officer" means the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 175B, 176, 177, and 180;
- (4) "Construction" means the process of building, altering, repairing, improving, or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property;
- (5) "Construction manager-agency" means services to assist the purchasing agency manage construction that are procured through a contract that is qualifications-based;
- (6) "Construction management-at-risk" means a project delivery method in which the purchasing officer enters into a single contract with an offeror that assumes the risk for construction at a contracted guaranteed maximum price as a general contractor, and provides consultation and collaboration regarding the construction during and after design of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190;
- (7) "Construction manager-general contractor" means a project delivery method in which the purchasing officer enters into a single contract with an offeror to provide preconstruction and construction services. During the preconstruction phase, the successful offeror provides design consulting services. During the construction phase, the successful offeror acts as general contractor by:
 - (a) Contracting with subcontractors; and
 - (b) Providing for management and construction at a fixed price with a completion deadline;
- (8) "Contract" means all types of state agreements, including grants and orders, for the **acquisition**, purchase or disposal of supplies, services, construction, or any other item. It includes: awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, **contingency fee** or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; public-private partnership agreements; and insurance contracts except as provided in KRS 45A.022. It includes supplemental agreements with respect to any of the foregoing;
- (9) "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision or by mutual action of the parties to the contract. It includes bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option;
- (10) "Contractor" means any person having a contract with a governmental body;
- (11) "Data" means recorded information, regardless of form or characteristic;
- (12) "Design-bid-build" means a project delivery method in which the purchasing officer sequentially awards separate contracts, the first for architectural, engineering, or engineering-related services to design the project and the second for construction of the capital project according to the design. The contract shall be subject to the bonding requirements of KRS 45A.185;

- (13) "Design-build" means a project delivery method in which the purchasing officer enters into a single contract for design and construction of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190;
- (14) "Designee" means a duly authorized representative of a person holding a superior position;
- (15) "Document" means any physical embodiment of information or ideas, regardless of form or characteristic, including electronic versions thereof;
- (16) "Employee" means an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body;
- (17) "Governmental body" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive or legislative branch of the state government;
- (18) "Meeting" means all gatherings of every kind, including video teleconferences;
- (19) "Negotiation" means contracting by either the method set forth in KRS 45A.085, 45A.090, or 45A.095;
- (20) "Person" means any business, individual, organization, or group of individuals;
- (21) "Private partner" means any entity that is a partner in a public-private partnership other than:
 - (a) The Commonwealth of Kentucky, or any agency or department thereof;
 - (b) The federal government;
 - (c) Any other state government; or
 - (d) Any agency of a state, federal, or local government;
- (22) "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It includes all functions that pertain to the procurement of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;
- (23) "Public-private partnership" means a project delivery method for construction or financing of capital projects, as defined in KRS 45.750, or procurement of services, pursuant to a written public-private partnership agreement entered into pursuant to KRS 45A.077 and administrative regulations promulgated thereunder, between:
 - (a) At least one (1) private partner; and
 - (b) The Commonwealth of Kentucky, or any agency or department thereof;
- (24) "Purchase request" or "purchase requisition" means that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025;
- (25) "Purchasing agency" means any governmental body that is authorized by this code or its implementing administrative regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer;
- (26) "Purchasing officer" means any person authorized by a governmental body in accordance with procedures prescribed by administrative regulations to enter into and administer contracts and make written determinations and findings with respect thereto. The term includes an authorized representative acting within the limits of authority;
- (27) "Services" means the rendering by a contractor of its time and effort rather than the furnishing of a specific end product, other than reports that are merely incidental to the required performance of services;
- (28) "Supplemental agreement" means any contract modification that is accomplished by the mutual action of the parties;
- (29) "Supplies" means all property, including but not limited to leases of real property, printing, and insurance, except land or a permanent interest in land;

- (30) "Using agency" means any governmental body of the state that utilizes any supplies, services, or construction purchased under this code;
- (31) "Video teleconference" means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment; and
- (32) "Writing" or "written" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

➔Section 5. KRS 15.100 is amended to read as follows:

- (1) The Attorney General shall appoint a deputy attorney general, who shall have the same qualifications required of a Circuit Judge except for residence in a district and who shall receive the same salary as a Circuit Judge, to serve at the pleasure of the Attorney General and to perform the duties he may designate. The Attorney General may appoint two (2) assistant deputy attorneys general, who shall have the same qualifications required of a District Judge except for residence in a district and who shall receive the same salary as a District Judge, to serve at the pleasure of the Attorney General and to perform the duties he may designate. In addition thereto, he may appoint another assistant deputy attorney general to function as administrator and shall set his salary.
- (2) In addition to the deputy attorney general, the Attorney General shall appoint such assistants and special attorneys as he deems necessary to transact the business of the Department of Law, and to perform the duties he may designate. The deputy attorney general, assistant deputy attorneys general, assistants, and special attorneys shall have full power, as authorized and under the direction of the Attorney General, to perform such duties as may be performed by the Attorney General. The Attorney General shall be responsible for the official acts of his deputy, assistant deputy attorneys general, assistants, and special attorneys.
- (3) In addition to the appointment and designation of a deputy, assistant deputy attorneys general, assistants and special attorneys pursuant to subsections (1) and (2) of this section, the Attorney General may enter into such contracts for legal services as he deems necessary and advisable. *Such contracts shall be subject to the relevant provisions of the Kentucky Model Procurement Code in KRS Chapter 45A.*
- (4) Each assistant or special attorney so appointed or designated shall be a person admitted to the practice of law by the Supreme Court of this Commonwealth and shall qualify by taking the oath of office.

➔Section 6. This Act shall not apply to contracts which were entered into before the effective date of this Act, nor to extensions of those contracts. This Act shall not apply to any litigation started before the effective date of this Act, nor to litigation stemming from that litigation.

Signed by Governor April 2, 2018.

CHAPTER 88

(HB 187)

AN ACT relating to dyslexia.

WHEREAS, frequent formative assessment enables teachers to better identify students who are not reading on grade level, provide additional interventions and support, and monitor their progress toward meeting grade-level goals; and

WHEREAS, assessment and evidence-based screening assist teachers to adjust instruction to better meet students' individual needs with appropriate interventions; and

WHEREAS, effective intervention is essential for struggling readers; and

WHEREAS, helping struggling readers reach grade-level expectations is not as simple as providing more of the same type of instruction; and

WHEREAS, these students need high-quality interventions that are evidence-based and designed specifically for struggling readers; and

WHEREAS, dyslexia is a barrier to learning to read; and

WHEREAS, researchers estimate that dyslexia affects at least one in ten people, although the true rate could be as high as one in five; and

WHEREAS, schools should be prepared to offer additional support and appropriate interventions for children with dyslexia to be successful; and

WHEREAS, teachers need to be able to recognize characteristics of dyslexia and use structured, multisensory approaches to teach and assist students to develop language and reading skills; and

WHEREAS, an investment in appropriate and effective interventions can provide significant return on investment to schools and to society over the course of a child's lifetime;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Dyslexia" means a specific learning disability that is neurological in origin. It is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede the growth of vocabulary and background knowledge;*
- (b) *"Evidence-based" has the same meaning as in 20 U.S.C. sec. 7801(21); and*
- (c) *"Phonemic awareness" means the ability to recognize that a spoken word consists of a sequence of individual sounds and the ability to manipulate individual sounds in speaking.*

(2) *By January 1, 2019, the Department of Education shall make available a dyslexia toolkit that includes guidance, technical assistance, and training to assist all local school districts in the implementation of evidence-based practices for instructing students identified with or displaying characteristics of dyslexia.*

(3) *The dyslexia toolkit shall include but not be limited to the following guidance for local districts targeting students in kindergarten through grade three (3) who have been identified with or displaying characteristics of dyslexia:*

- (a) *Evidence-based practices designed specifically for students with dyslexia;*
- (b) *Characteristics of targeted instruction for dyslexia;*
- (c) *Guidance on developing instructional plans for students with dyslexia;*
- (d) *Best practices toward meaning-centered reading and writing;*
- (e) *Structured multisensory and literacy approaches to teaching language and reading skills; and*
- (f) *Suggested professional development activities.*

(4) *The department shall collaborate with the Education Professional Standards Board, Council on Postsecondary Education, and other groups as necessary to improve and update professional development opportunities for teachers specifically related to dyslexia. Professional development opportunities may focus on:*

- (a) *Development and ongoing implementation of training and coaching for teachers;*
- (b) *Identifying high quality trainers to provide support to local districts utilizing a coaching model to develop building level dyslexia experts;*
- (c) *Developing awareness training modules for all instructional staff to include information about characteristics of dyslexia; and*
- (d) *Evidence-based interventions, structured multisensory and literacy approaches to teach language and reading skills, and accommodations for dyslexia and other specific learning disabilities.*

- (5) *Each local board of education may develop a policy addressing the implementation of a program for the identification of and strategies for assisting students in kindergarten through grade three (3) with dyslexia.*
- (6) *The local board policies may include but not be limited to:*
 - (a) *The definition and characteristics of dyslexia;*
 - (b) *A process for identifying students who are displaying characteristics of dyslexia;*
 - (c) *A process for the utilization of evaluation tools to accurately identify students who are displaying characteristics of dyslexia. Any qualified dyslexia evaluation tool utilized by a local district shall address but not be limited to the following components:*
 - 1. *Phonological awareness and phonemic awareness;*
 - 2. *Sound symbol recognition;*
 - 3. *Alphabet knowledge;*
 - 4. *Decoding skills;*
 - 5. *Encoding skills; and*
 - 6. *Rapid naming;*
 - (d) *A process for how evaluation tools are administered and evaluated by trained district personnel or licensed professionals;*
 - (e) *A process for outreach to parents of students identified with or displaying the characteristics of dyslexia with information and resource materials and how dyslexia may be addressed in the student's educational setting;*
 - (f) *Identification of evidence-based interventions, structured multisensory and literacy approaches to teach language and reading skills, and accommodations that schools may utilize to provide services to students identified as having dyslexia; and*
 - (g) *A process for monitoring a student's progress after the positive identification, including assessments to ascertain whether the intervention services improve the student's language processing and reading skills.*
- (7) *By June 30 of each year, each local school district that developed a policy addressing the implementation of a program for the identification of and strategies for assisting students in kindergarten through grade three (3) with dyslexia shall provide the department the following data for the current school year:*
 - (a) *The number of students in kindergarten through grade three (3) that were identified as displaying characteristics of dyslexia;*
 - (b) *The number of students in paragraph (a) of this subsection that were identified through the response-to-intervention process;*
 - (c) *The number of students in kindergarten through grade three (3) that were evaluated for dyslexia;*
 - (d) *The number of students in kindergarten through grade three (3) that were identified with dyslexia;*
 - (e) *The dyslexia evaluation tools used to identify students;*
 - (f) *The number of students in kindergarten through grade three (3) that were participating in interventions within the school setting;*
 - (g) *The process or tools used to evaluate student progress; and*
 - (h) *The number of trained district personnel or licensed professionals used to administer the dyslexia evaluation tools.*
- (8) *(a) The department shall establish a study project to gather information on early screening and intervention services for children with characteristics of dyslexia. The commissioner of education shall select three (3) school districts to participate in the study project, one (1) of which shall be located in an urban setting, one (1) of which shall be located in a suburban setting, and one (1) of which shall be located in a rural setting.*
 - (b) *The department shall establish guidelines and procedures for the study project.*

- (c) *The study project shall operate for three (3) full school years, beginning with the school year that begins at least three (3) months after the effective date of this Act.*
- (d) *The goal of the study project shall be to evaluate the effectiveness of early reading assistance programs for children with characteristics of dyslexia.*
- (e) *The commissioner may consult with recognized organizations that specialize in structured literacy programs for the treatment of dyslexia in establishing and operating the study project.*
- (f) *The department shall submit a final report outlining the findings of the study to the Interim Joint Committee on Education by November 1 after the final academic year of the study project.*

➔Section 2. KRS 158.305 is amended to read as follows:

- (1) As used in this section:

- (a) "Aphasia" means a condition characterized by either partial or total loss of the ability to communicate verbally or through written words. A person with aphasia may have difficulty speaking, reading, writing, recognizing the names of objects, or understanding what other people have said. The condition may be temporary or permanent and does not include speech problems caused by loss of muscle control;
- (b) "Dyscalculia" means the inability to understand the meaning of numbers, the basic operations of addition and subtraction, the complex operations of multiplication and division, or to apply math principles to solve practical or abstract problems;
- (c) "Dysgraphia" means difficulty in automatically remembering and mastering the sequence of muscle motor movements needed to accurately write letters or numbers;
- (d) "Dyslexia" *has the same meaning as in Section 1 of this Act*~~{means a language processing disorder that is neurological in origin, impedes a person's ability to read, write, and spell, and is characterized by difficulties with accuracy or fluency in word recognition and by poor spelling and decoding abilities};~~
- (e) "Phonemic awareness" *has the same meaning as in Section 1 of this Act* ~~{means the ability to recognize that a spoken word consists of a sequence of individual sounds and the ability to manipulate individual sounds in speaking}; and~~
- (f) "**Evidence-based**~~{Scientifically based research}~~" has the same meaning as in 20 U.S.C. sec. 7801(21~~(37)~~).

- (2) Notwithstanding any other statute or administrative regulation to the contrary, the Kentucky Board of Education shall promulgate administrative regulations for district-wide use of a response-to-intervention system for students in kindergarten through grade three (3), that includes a tiered continuum of interventions with varying levels of intensity and duration and which connects general, compensatory, and special education programs to provide interventions implemented with fidelity to **evidence-based**~~{scientifically based}~~ research and matched to individual student strengths and needs. At a minimum, evidence of implementation shall be submitted by the district to the department for:

- (a) Reading and writing by August 1, 2013;
- (b) Mathematics by August 1, 2014; and
- (c) Behavior by August 1, 2015.

- (3) The Department of Education shall provide technical assistance and training, if requested by a local district, to assist in the implementation of the district-wide, response-to-intervention system as a means to identify and assist any student experiencing difficulty in reading, writing, mathematics, or behavior and to determine appropriate instructional modifications needed by advanced learners to make continuous progress.

- (4) The technical assistance and training shall be designed to improve:

- (a) The use of specific screening processes and programs to identify student strengths and needs;
- (b) The use of screening data for designing instructional interventions;
- (c) The use of multisensory instructional strategies and other interventions validated for effectiveness by **evidence-based**~~{scientifically based}~~ research;
- (d) Progress monitoring of student performance; and

- (e) Accelerated, intensive, direct instruction that addresses students' individual differences, including advanced learners, and enables students that are experiencing difficulty to catch up with typically performing peers.
- (5) The department shall develop and maintain a Web-based resource providing teachers access to:
 - (a) Information on the use of specific screening processes and programs to identify student strengths and needs, including those for advanced learners;
 - (b) Current, **evidence-based**~~scientifically-based~~ research and age-appropriate instructional tools that may be used for substantial, steady improvement in:
 - 1. Reading when a student is experiencing difficulty with phonemic awareness, phonics, vocabulary, fluency, general reading comprehension, or reading in specific content areas, or is exhibiting characteristics of dyslexia, aphasia, or other reading difficulties;
 - 2. Writing when a student is experiencing difficulty with consistently producing letters or numbers with accuracy or is exhibiting characteristics of dysgraphia;
 - 3. Mathematics when a student is experiencing difficulty with basic math facts, calculations, or application through problem solving, or is exhibiting characteristics of dyscalculia or other mathematical difficulties; or
 - 4. Behavior when a student is exhibiting behaviors that interfere with his or her learning or the learning of other students; and
 - (c) Current, **evidence-based**~~scientifically-based~~ research and age-appropriate instructional tools that may be used for continuous progress of advanced learners.
- (6) The department shall encourage districts to utilize both state and federal funds as appropriate to implement a district-wide system of interventions.
- (7) The department is encouraged to coordinate technical assistance and training on current best practice interventions with state postsecondary education institutions.
- (8) The department shall collaborate with the Kentucky Collaborative Center for Literacy Development, the Kentucky Center for Mathematics, the Kentucky Center for Instructional Discipline, the Education Professional Standards Board, the Council on Postsecondary Education, postsecondary teacher education programs, and other agencies and organizations as deemed appropriate to ensure that teachers are prepared to utilize **evidence-based**~~scientifically-based~~ interventions in reading, writing, mathematics, and behavior.
- (9) In compliance with 20 U.S.C. sec. 1414(a)(1)(E), screening of a student to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services and nothing in this section shall limit a school district from completing an initial evaluation of a student suspected of having a disability.
- (10) By November 30, 2013, and annually thereafter, the department shall provide a report to the Interim Joint Committee on Education that includes~~[-~~:
 - ~~(a) Data on the number of school districts implementing response to intervention systems and scientifically based research practices in reading, writing, mathematics, and behavior;~~
 - ~~(b) Information [survey data] on the types of evidence-based~~~~scientifically-based~~ research interventions **being implemented by districts in reading, writing, mathematics, and behavior in kindergarten through grade three (3)**~~[-~~;~~and~~
 - ~~(c) Data on the effectiveness of interventions in improving student performance in Kentucky schools].~~

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

By the 2019-2020 academic year, postsecondary institutions offering teacher preparation programs for elementary and secondary regular education shall, subject to available funds, include instruction on:

- (1) *The definition and characteristics of dyslexia;*
- (2) *Processes for identifying dyslexia;*
- (3) *Evidence-based interventions and accommodations for dyslexia and other disorders defined in KRS 158.305 and related literacy and learning challenges; and*

- (4) *Core elements of a response-to-intervention framework addressing reading, writing, mathematics, and behavior, including;*
- (a) *Universal screening;*
 - (b) *Evidence-based research interventions;*
 - (c) *Progress monitoring of the effectiveness of interventions on student performance;*
 - (d) *Data-based decision-making procedures related to:*
 - 1. *Determining intervention effectiveness on student performance; and*
 - 2. *Determining the need to continue, alter, or discontinue interventions or conduct further evaluation of student needs; and*
 - (e) *Application and implementation of response-to-intervention and dyslexia instructional practices in the classroom setting.*

➔Section 4. This Act shall be known and may be cited as the Ready to Read Act.

Signed by Governor April 2, 2018.

CHAPTER 89

(HB 140)

AN ACT relating to law enforcement and firefighters, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. KRS 15.410 is amended to read as follows:

It is the intention of the General Assembly to:

- (1) ~~*Ensure*~~~~assure~~ that the criminal laws of the Commonwealth are enforced fairly, uniformly, and effectively throughout the state by strengthening and upgrading~~local~~ law enforcement;~~to~~
- (2) Attract competent, highly qualified young people to the field of law enforcement and to retain qualified and experienced officers for the purpose of providing maximum protection and safety to the citizens of, and the visitors to, this Commonwealth; and~~to~~
- (3) Offer a state monetary supplement for~~local~~ law enforcement officers while upgrading the educational and training standards of ~~the~~~~such~~ officers.

➔Section 2. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

- (1) ~~*"Cabinet" means the Justice and Public Safety Cabinet;*~~~~*"Local unit of government" means any city or county, combination of cities and counties, state or public university, or county sheriff's office of the Commonwealth.*~~
- (2) (a) "Police officer" means:
 - 1. *A local officer, limited to:*
 - a. A full-time:
 - i. Member of a lawfully organized police department of county, urban-county, or city government; ~~or~~~~a~~
 - ii. Sheriff or full-time deputy sheriff, including any *sheriff* providing court security or appointed under KRS 70.030;~~or~~
 - b. *A school security officer; and*

2. *A state officer, limited to:*

- a. ~~A~~~~state or~~ public university police officer;
- b. *A Kentucky state trooper;*
- c. *A Kentucky State Police arson investigator;*
- d. *A Kentucky State Police hazardous device investigator;*
- e. *A Kentucky State Police legislative security specialist;*
- f. *A Kentucky vehicle enforcement officer;*
- g. *A Kentucky Horse Park mounted patrol officer, subject to subsection (1)(f) of Section 6 of this Act;*
- h. *A Kentucky state park ranger, subject to subsection (1)(f) of Section 6 of this Act;*
- i. *An agriculture investigator;*
- j. *A charitable gaming investigator;*
- k. *An alcoholic beverage control investigator;*
- l. *An insurance fraud investigator;*
- m. *An Attorney General investigator; and*
- n. *A Kentucky Department of Fish and Wildlife Resources conservation officer, subject to subsection (1)(e) of Section 6 of this Act;*

who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state;~~[-, but]~~

- (b) *"Police officer"* does not include~~[- Department of Kentucky State Police,]~~ any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer, or any other peace officer not specifically authorized in KRS 15.410 to 15.510;~~[-]~~

(3) *"Police department" means the employer of a police officer;*

(4) *"Retirement plan" means a defined benefit plan consisting of required employer contributions pursuant to KRS 61.565, 61.702, or any other provision of law;*

(5) *"Unit of government" means any city, county, combination of cities and counties, public university, state agency, local school district, or county sheriff's office of the Commonwealth; and*~~["Council" means the Kentucky Law Enforcement Council.]~~

~~(6)(4)~~ "Validated job task analysis" means the core job description ~~that~~~~which~~ describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth, ~~and that~~~~which~~ is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the~~[- Kentucky Law Enforcement]~~ council as being competent to conduct such a study.

➔Section 3. KRS 15.430 is amended to read as follows:

(1) There is hereby established the Law Enforcement Foundation Program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky~~[-]~~ and insurance premium surcharge proceeds ~~that~~~~which~~ accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to~~[- local]~~ units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund.

(2) All moneys~~[- remaining in this fund on July 1, 1982, and]~~ deposited *in this fund*~~[- thereafter]~~, including earnings from their investment, shall be deemed a trust and agency account~~[-, but, beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars (\$3,000,000) shall lapse].~~~~[- On and after July 1, 1999,]~~ Moneys in this account shall not lapse.

➔Section 4. KRS 15.440 is amended to read as follows:

- (1) Each ~~local~~ unit of government ~~that~~^{which} meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:
- (a) Employs one (1) or more police officers;
 - (b) Pays every police officer at least the minimum federal wage;
 - (c) ***Requires all police officers to have, at a minimum,***~~Maintains the minimum educational requirement of~~ a high school degree, or its equivalent as determined by the ~~Kentucky Law Enforcement~~ council, ***except that each police officer employed prior to the date on which the officer's police department was included as a participant under KRS 15.410 to 15.510***~~for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998,~~ shall be deemed to have met the requirements of this subsection;
 - (d)
 1. Requires all police officers~~employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998,~~ to successfully complete a basic training course of nine hundred twenty-eight (928) hours' duration within one (1) year of the date of employment at a school certified or recognized by the ~~Kentucky Law Enforcement~~ council, which may provide a different number of hours of instruction as established in this paragraph, ***except that each police officer employed prior to the date on which the officer's police department was included as a participant under KRS 15.410 to 15.510***~~All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998,~~ shall be deemed to have met the requirements of this subsection.
 2. As the exclusive method by which the number of hours required for basic training courses shall be modified from that which is specifically established by this paragraph, the council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, explicitly set the exact number of hours for basic training at a number different from nine hundred twenty-eight (928) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis.
 3. If the council sets an exact number of hours different from nine hundred twenty-eight (928) in an administrative regulation as ***provided by***~~set out in~~ this paragraph, it shall not further change the number of hours required for basic training without promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A.
 4. Nothing in this paragraph shall be interpreted to prevent the council, pursuant to its authority under KRS 15.330, from approving training schools with a curriculum requiring attendance of a number of hours that exceeds nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation ***as provided***~~set out~~ by subparagraphs 2. and 3. of this paragraph. However, the training programs and schools for the basic training of law enforcement personnel conducted by the department pursuant to KRS 15A.070 shall not contain a curriculum that requires attendance of a number of hours for basic training that is different from nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation promulgated by the council pursuant to the provisions of KRS Chapter 13A as ***provided***~~set out~~ by subparagraphs 2. and 3. of this paragraph.
 5. KRS 15.400 and 15.404(1), and subparagraphs 1. to 4. of this paragraph to the contrary notwithstanding, the council may, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, approve basic training credit for:
 - a. Years of service credit as a law enforcement officer with previous service in another state; and
 - b. Basic training completed in another state;
 - (e) Requires all police officers~~, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998,~~ to successfully complete each calendar year an in-

service training course, appropriate to the officer's rank and responsibility and the size and location of *the officer's police* ~~his~~ department, of forty (40) hours' duration, of which the number of hours shall not be changed by the council, at a school certified or recognized by the ~~Kentucky Law Enforcement~~ council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;

- (f) *Complies* ~~Requires compliance~~ with all provisions of law applicable to *police officers or police departments* ~~local police, state or public university police, or sheriffs and their deputies~~, including transmission of data to the centralized criminal history record information system as required by KRS 17.150;
- (g) *Complies* ~~Requires compliance~~ with all ~~reasonable~~ rules and regulations, appropriate to the size and location of the ~~local~~ police department ~~, state or public university police department, or sheriff's office,~~ issued by the ~~Justice and Public Safety~~ cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;
- (h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that ~~meets the standards set forth by, and~~ has been approved by ~~the~~ ~~Justice and Public Safety~~ cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include *a* purpose *statement* ~~statements~~; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for *Health and Family Services* ~~Families and Children~~; Department for Community Based Services; victim rights, assistance, and service responsibilities; and duties related to timely completion of records; and
- (i) Possesses by January 1, 2017, a written policy and procedures manual related to sexual assault examinations that meets the standards *provided* ~~set forth~~ by, and has been approved by, the ~~Justice and Public Safety~~ cabinet, and which includes:
 1. A requirement that evidence collected as a result of an examination performed under KRS 216B.400 be taken into custody within five (5) days of notice from the collecting facility that the evidence is available for retrieval;
 2. A requirement that evidence received from a collecting facility relating to an incident which occurred outside the jurisdiction of the *police* department be transmitted to a *police* department with jurisdiction within ten (10) days of its receipt by the *police* department;
 3. A requirement that all evidence retrieved from a collecting facility under this paragraph be transmitted to the Department of Kentucky State Police forensic laboratory within thirty (30) days of its receipt by the *police* department;
 4. A requirement that a suspect standard, if available, be transmitted to the Department of Kentucky State Police forensic laboratory with the evidence received from a collecting facility; and
 5. A process for notifying the victim from whom the evidence was collected of the progress of the testing, whether the testing resulted in a match to other DNA samples, and if the evidence is to be destroyed. The policy may include provisions for delaying notice until a suspect is apprehended or the office of the Commonwealth's attorney consents to the notification, but shall not automatically require the disclosure of the identity of any person to whom the evidence matched.
- (2) ~~A~~ ~~No local~~ unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund *only if* ~~unless~~ the ~~local~~ police department *of the unit of government remains in compliance* ~~, state or public university police department, or sheriff's office actually begins and continues to comply~~ with the requirements of this section ~~; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsection (1)(f) and (g) of this section~~.
- (3) *Deputies employed by* a sheriff's office shall *be eligible to participate* ~~not lose eligibility to share~~ in the distribution of funds from the Law Enforcement Foundation Program fund *regardless of participation by* ~~if~~ the sheriff ~~does not participate in the Law Enforcement Foundation Program fund~~.

- (4) Failure to meet a deadline established in a policy adopted pursuant to subsection (1)(i) of this section for the retrieval or submission of evidence shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

➔Section 5. KRS 15.450 is amended to read as follows:

- (1) The secretary or his or her designated representative shall administer the Law Enforcement Foundation Program fund pursuant to the provisions of KRS 15.410 to 15.510 and may promulgate any administrative regulations as~~[-, in his or her judgment, are]~~ necessary to carry out ~~the~~**this** responsibilities under KRS 15.410 to 15.510. Administrative hearings promulgated by administrative regulation under authority of this section shall be conducted in accordance with KRS Chapter 13B.
- (2) The secretary or ~~the~~**this** designated representative~~[- shall determine which local units of government are eligible to share in the Law Enforcement Foundation Program fund and]~~ may withhold or terminate payments to any~~[- local]~~ unit **of government** that does not comply with the requirements of KRS 15.410 to 15.510 or the administrative regulations issued by the~~[- Justice and Public Safety]~~ cabinet under KRS 15.410 to 15.510.
- (3) The~~[- Justice and Public Safety]~~ cabinet shall, from moneys appropriated and accruing to the fund as provided under KRS 15.430, receive reimbursement for the salaries and other costs of administering the fund, including, but not limited to, council operations and expenses. The amount to be reimbursed for any given year shall be determined by the council and shall not exceed five percent (5%) of the total amount of funds for that year.
- (4) The~~[- Justice and Public Safety]~~ cabinet shall furnish periodically to the council any reports as may be deemed reasonably necessary.

➔Section 6. KRS 15.460 is amended to read as follows:

- (1) (a) Except as provided in subsection (4)(a) of this section,~~[- beginning July 15, 1998,]~~ an eligible~~[- local]~~ unit of government shall be entitled to receive~~[- annually a supplement of two thousand seven hundred fifty dollars (\$2,750) for each qualified police officer it employs, and beginning on July 1, 1999,]~~ an annual supplement of three thousand dollars (\$3,000) for each qualified police officer it employs. ***The supplement amount shall be increased to four thousand dollars (\$4,000) beginning July 1, 2018.***
- (b)
 1. ***In addition to the supplement, the unit of government shall receive***~~[-, plus]~~ an amount equal to the required employer's contribution on the supplement to the ***retirement***~~[- defined benefit pension]~~ plan ***and duty category*** to which the officer belongs~~[-, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category]~~. In the case of County Employees Retirement System membership, the ***retirement plan***~~[- pension]~~ contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage.
 2. The~~[- local]~~ unit of government shall pay the amount received for retirement ***plan*** coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement.
 3. ~~If~~**Should** the foundation program funds ~~are~~**be** insufficient to pay employer contributions to the system, then the total amount available for ***retirement plan***~~[- pension]~~ payments shall be prorated to each eligible government so that each receives the same percentage of required ***retirement plan***~~[- pension]~~ costs attributable to the cash salary supplement.
- (c)
 1. ***In addition to the payments received under paragraphs (a) and (b) of this subsection, but only if sufficient funds are available to make all payments required under paragraph (b) of this subsection, each unit of government shall receive an administrative expense reimbursement in an amount equal to seven and sixty-five one-hundredths percent (7.65%) of the total annual supplement received greater than three thousand one hundred dollars (\$3,100) for each qualified police officer that is a local officer as defined in subsection (2)(a)1. of Section 2 of this Act that it employs, subject to the cap established by subparagraph 3. of this paragraph.***
 2. ***The unit of government may use the moneys received under this paragraph in any manner it deems necessary to partially cover the costs of administering the payments received under paragraph (a) of this subsection.***
 3. ***The total amount distributed under this paragraph shall not exceed the total sum of five hundred twenty-five thousand dollars (\$525,000) for each fiscal year. If there are insufficient funds to provide for full reimbursement as provided in subparagraph 1. of this paragraph,***

then the amount shall be distributed pro rata to each eligible unit of government so that each receives the same percentage attributable to its total receipt of the cash salary supplement.

- (d) *In addition to the payments received under paragraphs (a) and (b) of this subsection, each unit of government shall receive the associated fringe benefits costs for the total supplement of four thousand dollars (\$4,000) for each qualified police officer that is a state officer as defined in subsection (2)(a)2. of Section 2 of this Act that it employs. Fringe benefits shall be limited to retirement plan contributions and the federal insurance contributions act tax.*
- (e) *Notwithstanding paragraphs (a) to (d) of this subsection, a Kentucky Department of Fish and Wildlife Resources conservation officer appointed pursuant to KRS 150.090(1) and listed in subsection (2)(a)2.n. of Section 2 of this Act shall be a participant in the Kentucky Law Enforcement Foundation Program fund, but shall not receive an annual supplement from that fund. A conservation officer shall receive an annual training stipend commensurate to the annual supplement paid to the police officer as defined in Section 1 of this Act. The annual training stipend disbursed to a conservation officer shall be paid from the game and fish fund pursuant to Section 14 of this Act; and*
- (f) *Any peace officer sanctioned by the Tourism, Arts and Heritage Cabinet shall be deemed a police officer solely for the purpose of inclusion in the Law Enforcement Foundation Program fund.*
- (2) *The supplement provided in subsection (1) of this section shall be paid by the unit of government to each police officer whose qualifications resulted in receipt of a supplemental payment. The payment shall be in addition to the police officer's*~~Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his or her qualifications brought to the local government. The supplement paid each police officer shall be in addition to his or her~~*regular salary and, except as provided in subsection (4)(b) of this section, shall continue to be paid to a police*~~an~~ *officer who is a member of:*
 - (a) The Kentucky National Guard during any period of activation under Title 10 or 32 of the United States Code or KRS 38.030; or
 - (b) Any reserve component of the United States Armed Forces during any period of activation with the United States Armed Forces.
- (3) (a) ~~Each~~*Each* qualified sheriff who receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.
- (b) ~~Each~~*Each* qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170, shall upon annual settlement with the fiscal court under KRS 134.192, receive that portion of the supplement that will not cause his or her compensation to exceed the maximum salary.
- (c) ~~Each~~*Each* qualified sheriff who seeks to participate in the fund shall forward a copy of the annual settlement prepared under KRS 134.192 to the fund. The sheriff shall reimburse the fund if an audit of the annual settlement conducted pursuant to KRS 134.192 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the annual settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.
- (d) ~~Each~~*Each* qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his or her own budget or from the county treasurer if the sheriff pools his or her fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his or her deputies to participate in the fund.
- (4) (a) Eligible~~local~~ units of government shall receive the salary supplement, excluding funds applicable to the employer's *retirement plan*~~pension fund~~ contribution, provided in subsection (1) of this section for distribution to a *police*~~an~~ officer who is eligible under subsection (2) of this section.
- (b) A qualified police officer receiving a salary supplement during any period of military activation, as provided in subsection (2) of this section, shall not be entitled to receive the employer's *retirement plan*~~pension system~~ contribution, and the salary supplement shall not be subjected to an employee's contribution to a *retirement plan*~~pension system~~. The salary supplement shall otherwise be taxable for all purposes.

(5) *A unit of government receiving disbursements under this section shall follow all laws applicable to it that may govern due process disciplinary procedures for its officers, but this subsection shall not be interpreted to:*

- (a) *Authorize the department, the cabinet, or the council to investigate, judge, or exercise any control or jurisdiction regarding the compliance of a unit of government with laws that may govern due process disciplinary procedures for its officers, except as otherwise provided by laws;*
- (b) *Create a private right of action for any police officer regarding an agency's participation in this section;*
- (c) *Authorize a termination of an agency's participation as a result of a judgment that the unit of government failed to follow its procedures in any independent cause of action brought by the police officer against the unit of government; or*
- (d) *Prevent the adoption, amendment, or repeal of any laws that may govern the due process disciplinary procedures of a unit of government's police officers.*

➔Section 7. KRS 15.470 is amended to read as follows:

Law Enforcement Foundation Program funds made available to ~~local~~ units *of government* shall be received, held, and expended in accordance with the provisions of KRS 15.410 to 15.510, including the administrative regulations promulgated by the ~~Justice and Public Safety~~ cabinet and the following specific restrictions:

- (1) Funds provided shall be used only as a cash salary supplement to police officers, for payments to the ~~retirement~~~~defined benefit pension~~ plan to which the officer belongs to cover employer retirement costs on the cash salary supplement, and for administrative costs as provided in KRS 15.450;
- (2) Funds provided shall be used only to compensate police officers who have complied with KRS 15.440(1)(c), (d), and (e);
- (3) Each police officer shall be entitled to receive the state supplement *that the officer's*~~which his~~ qualifications brought to the ~~local~~ unit *of government*;
- (4) Funds provided shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to police officers;
- (5) Each police officer receiving the state supplement who is also a member of the Kentucky National Guard or any reserve component of the United States Armed Forces shall continue to receive the state supplement during any period of military activation, as provided in KRS 15.460(2); and
- (6) Funds distributed or received pursuant to subsection (5) of this section shall be excluded from all aspects of the Kentucky Retirement Systems or any other retirement system.

➔Section 8. KRS 15.480 is amended to read as follows:

The Finance and Administration Cabinet, on the certification of the ~~Justice and Public Safety~~ cabinet, shall draw warrants as specified hereinafter on the State Treasurer for the amount of the Law Enforcement Foundation Program fund due each participating ~~local~~ unit *of government*. Checks shall be issued by the State Treasurer and transmitted to the ~~Justice and Public Safety~~ cabinet for distribution to the proper officials of participating ~~local~~ units *of government that*~~which~~ have complied with the provisions of KRS 15.410 to 15.510 and the administrative regulations of the ~~Justice and Public Safety~~ cabinet. ~~Beginning July 1, 1972, and~~ On the first day of each month ~~thereafter~~, the share of each eligible and participating ~~local~~ unit of government shall be distributed from the Law Enforcement Foundation Program fund.

➔Section 9. KRS 15.490 is amended to read as follows:

- (1) Each participating ~~local~~ unit of government shall submit reports to the ~~Justice and Public Safety~~ cabinet on March 31, June 30, September 30, and December 31 of each year containing information relative to number, rank, education, training, and compensation of police officers employed by it and the disposition made of any state or other funds received pursuant to KRS 15.410 to 15.510. Nothing in this section shall prohibit the ~~Justice and Public Safety~~ cabinet from requiring additional information or reports from participating ~~local~~ units of government;
- (2) ~~Local~~ Units of government shall include the additional compensation paid to each police officer from the Law Enforcement Foundation Program fund as a part of the officer's salary in determining all payroll deductions.

➔Section 10. KRS 15.500 is amended to read as follows:

- (1) If funds appropriated by the General Assembly and otherwise made available to the Law Enforcement Foundation Program fund are insufficient to provide the amount of money required by KRS 15.460, the ~~Justice and Public Safety~~ cabinet shall establish the rate of assistance to be paid ~~to eligible local units of governments~~.
- (2) Funds unexpended by the ~~Justice and Public Safety~~ cabinet at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund, pursuant to KRS 15.430, 42.190 and 136.392, shall not lapse as provided by KRS 45.229 but shall be carried forward into the following fiscal year and shall be used solely for the purposes specified in KRS 15.410 to 15.500.

➔Section 11. KRS 15.520 is amended to read as follows:

- (1) As used in this section:
 - (a) "Citizen" means any individual who is not:
 1. A member or supervisor within the law enforcement agency that employs an officer; or
 2. An elected or appointed official within the unit of government under which the law enforcement agency that employs the officer is organized;
 - (b) "Complaint" means any statement by a citizen, whether written or verbal, that alleges any type of misconduct by an officer, including statements that are submitted or received anonymously;
 - (c) "Disciplinary action" means termination, demotion, a decrease in pay or grade, suspension without pay, and a written reprimand;
 - (d) "General employment policies" means the rules, regulations, policies, and procedures commonly applicable to the general workforce or civilian employees that are not unique to law enforcement activities or the exercise of peace officer authority, regardless of whether those rules, regulations, policies, and procedures exist or appear in a departmental manual or handbook that is solely applicable to a law enforcement department or agency within the unit of government employing the officer;
 - (e) "Interrogation" means a formal investigative interview and does not mean conversations or meetings of supervisory personnel and subordinate officers that are not intended to result in disciplinary action, such as conversations or meetings held for the purpose of providing corrective instruction counseling or coaching;
 - (f) "Law enforcement procedures" means only those policies, rules, and customs that:
 1. Are specific to the conduct of officers in the exercise of law enforcement powers and functions, including, without limitation: use of force, conduct in the course of pursuits, conduct during stops or detentions of citizens, conduct in the course of interacting with, assisting, or questioning of citizens, and investigative conduct;
 2. Are carried out in the course of peace officer functions;
 3. Are not general employment policies; and
 4. May exist in either written form or in the form of unwritten standards, practices, or protocols generally accepted and applied in the law enforcement profession;
 - (g) "Misconduct" means any act or omission by an officer that violates criminal law, law enforcement procedures, or the general employment policies of the employing agency; and
 - (h) "Officer" means a person employed as a full-time peace officer by a unit of government that receives funds under KRS 15.410 to 15.510, *except a state officer listed in subsection (2)(a)2.b. to f. and n. of Section 2 of this Act*, who has completed any officially established initial probationary period of employment lasting no longer than twelve (12) months not including, unless otherwise specified by the employing agency, any time the officer was employed and completing the basic training required by KRS 15.404.
- (2) In order to establish a minimum system of professional conduct for officers of local units of government of this Commonwealth, the following standards are stated as the intention of the General Assembly to deal fairly and ~~establish~~ administrative due process rights in certain disciplinary matters concerning those officers of an employing unit of government that participates in the Kentucky Law Enforcement Foundation Program

fund administered pursuant to KRS 15.430 and, at the same time, to provide a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by officers covered by this section.

- (3) Any complaint taken from a citizen alleging misconduct on the part of any officer shall be taken as follows:
 - (a) If the complaint alleges criminal activity by an officer, the allegations may be investigated without a signed, sworn complaint of the citizen;
 - (b) If the complaint alleges any other type of violation not constituting criminal activity, including violations of law enforcement procedures or the general employment policies of the employing agency, an affidavit, signed and sworn to by the citizen, shall be obtained, except as provided by paragraph (c) of this subsection; or
 - (c) If a complaint is required to be obtained and the citizen, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the employing agency may investigate the allegations, but shall bring charges under subsection (6) of this section against the officer only if the employing agency can independently substantiate the allegations absent the sworn statement of the citizen.
- (4)
 - (a) When an officer is accused of an act or omission that would constitute a violation of law enforcement procedures by any individual within the law enforcement agency employing the officer, including supervisors and elected or appointed officials of the officer's employing agency, the employing agency shall conform the conduct of any investigation to the provisions of subsection (5) of this section, shall formally charge the officer in accordance with subsection (6) of this section, and shall conduct a hearing in accordance with subsection (7) of this section before any disciplinary action shall be taken against the officer.
 - (b) The provisions of this subsection shall not prevent the employing agency from suspending the officer, with or without pay, during an investigation and pending the final disposition of any formal charges, except that an officer suspended without pay shall be entitled to full back pay and benefits for the regular hours he or she would have worked if no formal charges are brought or the hearing authority finds the officer not guilty of the charges.
 - (c) An employing agency shall not be required to follow the provisions of this section in addressing conduct by the officer that would constitute a violation of the general employment policies of the employing agency.
- (5)
 - (a) Any complaint filed by a citizen under subsection (3) of this section or any allegation of conduct that would constitute a violation of law enforcement procedures under subsection (4) of this section shall be investigated by the employing agency or another designated law enforcement agency in accordance with the provisions of this subsection if the employing agency determines that an investigation of the complaint or the alleged conduct is warranted.
 - (b) No threats, promises, or coercions shall be used at any time against any officer while he or she is a suspect in a criminal case or has been accused of a violation of law enforcement procedures. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension.
 - (c) Unless otherwise agreed to in writing by the officer, no police officer shall be subjected to interrogation for alleged conduct that violates law enforcement procedures, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. The notice of interrogation shall include a statement regarding any reason for the interrogation and shall be served on the officer by certified mail, return receipt requested, or by personal delivery.
 - (d) The interrogation shall be conducted while the officer is on duty. The officer may be required to submit a written report of the alleged incident if the request is made by the employing agency no later than the end of the subject officer's next tour of duty after the tour of duty during which the employing agency initially was made aware of the complaint.
 - (e) If an officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he or she shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to, the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences.

- (6)
 - (a) If it is determined through investigation or other means that the facts alleged in a citizen complaint or in an accusation of a violation of law enforcement procedures warrant charging the officer, the charge shall be made in writing with sufficient specificity so as to fully inform the officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend himself or herself.
 - (b) The charge shall be signed by a representative of the employing agency, shall set out the disciplinary action recommended or imposed, and shall be served on the officer in writing by certified mail, return receipt requested, or by personal delivery.
 - (c) When an officer has been charged with a violation of law enforcement procedures, no public statements shall be made concerning the alleged violation by any person or persons of the employing agency or the officer so charged, until final disposition of the charges.
 - (d) No officer as a condition of continued employment by the employing agency shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature.
- (7) Unless waived by the charged officer in writing, a hearing shall be conducted by the officer's appointing authority to determine whether there is substantial evidence to prove the charges and to determine what, if any, disciplinary action shall be taken if substantial evidence does exist. In conducting a hearing, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any officer charged, except as otherwise agreed to in writing by the officer and the employing agency:
 - (a) The accused officer shall be given at least twelve (12) days' written notice of any hearing. The notice of hearing shall be served on the officer by certified mail, return receipt requested, or by personal delivery;
 - (b) Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the officer no less than twelve days (12) prior to the time of any hearing;
 - (c) At any hearing based upon the sworn complaint of a citizen, the citizen shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested, or by personal delivery;
 - (d) If the return receipt has been returned unsigned, or the individual does not appear, except due to circumstances beyond his or her control he or she cannot appear at the time and place of the hearing, any charge resulting from a complaint made by that citizen shall not be considered by the hearing authority and shall be dismissed with prejudice;
 - (e) The accused officer shall have the right and opportunity to obtain and have counsel present, and to be represented by counsel;
 - (f) The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;
 - (g) The accused officer shall be allowed to present witnesses and any documentary or other relevant evidence the officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;
 - (h) If any officer who has been suspended with or without pay is not given a hearing as provided by this section within seventy-five (75) days of any charge being filed pursuant to this section, the charge shall be dismissed with prejudice and shall not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits;
 - (i) Any officer who has been suspended without pay who is found not guilty of the charges by the hearing authority shall be reinstated with the full back pay and benefits for the regular hours he or she would have worked;
 - (j) The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on

failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced; and

- (k) To the extent the provisions of KRS 61.805 to 61.850 are applicable, the hearing authority may conduct the hearing required by this subsection in a closed session, unless the officer requests of the hearing authority in writing at least three (3) days prior to the hearing that the hearing be open to the public.
- (8) (a) Any officer who is found guilty by any hearing authority of any charge, may bring an action in the Circuit Court in the county in which the employing agency is located within thirty (30) days of the date written findings are issued to appeal the action of the hearing authority. The appeal shall be initiated by the filing of a complaint in the same manner as any civil action under the Rules of Civil Procedure and shall include a copy of the hearing authority's final order. The Circuit Court review of the case shall be based solely upon the administrative record created before the hearing authority and any new evidence offered by the officer regarding alleged arbitrariness on the part of the hearing authority.
- (b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action.
- (9) The provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall not apply in any proposed disciplinary action arising from a citizen complaint made under subsection (3) of this section or arising from any allegation of conduct that would constitute a violation of law enforcement procedures under subsection (4) of this section. This section shall not be interpreted or construed to alter or impair any of the substantive rights provided to a city police officer under KRS 90.310 to 90.410, 95.450, and 95.765 for any proposed disciplinary action or other matters not arising under subsections (3) and (4) of this section, including proposed actions involving alleged violations of general employment policies. To the extent that the provisions of this section are inapplicable to any proposed disciplinary action against a city police officer, the provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall remain in full force and effect.
- (10) As the provisions of this section relate to a minimum system of professional conduct, nothing in this section shall be interpreted or construed to:
 - (a) Limit or to in any way affect any rights previously afforded to officers of the Commonwealth by statute, collective bargaining or working agreement, or legally adopted ordinance;
 - (b) Preclude an employing agency from investigating and charging an officer both criminally and administratively;
 - (c) Prevent the suspension with or without pay or reassignment of an officer during an investigation and pending final disposition charges;
 - (d) Permit an employing agency to categorize and treat any complaint that originates from a citizen as an internal matter in order to avoid application of all of the provisions of this section to the final disposition of a citizen's complaint;
 - (e) Apply any disciplinary action required by this section to actions taken by an employing agency that is not related to misconduct by a law enforcement officer, such as personnel decisions made by the employing agency due to a lack of resources or personnel decisions related to a chief's management of a *police* department; or
 - (f) Prevent an employing agency from electing to apply the provisions of this section, or parts thereof, in circumstances that would not be covered under this section.
- (11) This section shall not apply to officers employed by a consolidated local government that receives funds under KRS 15.410 to 15.510, who shall instead be governed by the provisions of KRS 67C.326.

➔Section 12. KRS 95A.250 is amended to read as follows:

- (1) (a) ~~{Beginning July 1, 1982, }An eligible local government shall be entitled to receive{ annually a supplement of two thousand seven hundred fifty dollars (\$2,750) for each qualified professional firefighter it employs, and beginning on July 1, 1999,} an annual supplement of three thousand dollars (\$3,000) and, beginning July 1, 2018, an annual supplement of four thousand dollars (\$4,000) for each qualified professional firefighter it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan, or to a plan qualified under Section 401(a) or Section 457 of the Internal Revenue Code of 1954 as amended.~~

- (b) The employer's contribution to any of these plans on the supplement shall not exceed the required employer's contribution to the County Employees Retirement System pursuant to KRS Chapter 78 for the hazardous duty category. The pension contribution on the supplement shall be paid whether the professional firefighter entered the system under hazardous duty coverage or nonhazardous coverage.
 - (c) The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the supplement.
 - (d) Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the supplement.
 - (e)
 1. *In addition to the payments received under paragraphs (a) and (b) of this subsection, but only if sufficient funds are available to fully reimburse each eligible local government for the employer contributions to the pension system, each local government shall receive an administrative expense reimbursement in an amount equal to seven and sixty-five one-hundredths percent (7.65%) of the total annual supplement received greater than three thousand one hundred dollars (\$3,100) for each qualified professional firefighter it employs, subject to the cap established by subparagraph 3. of this paragraph.*
 2. *The local government may use the moneys received under this paragraph in any manner it deems necessary to partially cover the costs of administering the payments received under paragraph (a) of this subsection.*
 3. *The total amount distributed under this paragraph shall not exceed the total sum of two hundred fifty thousand dollars (\$250,000) for each fiscal year. If there are insufficient funds to provide for full reimbursement as provided in subparagraph 1. of this paragraph, then the amount shall be distributed pro rata to each eligible local government so that each receives the same percentage attributable to its total receipt of the cash salary supplement.*
- (2) (a) Each qualified professional firefighter, whose local government receives a supplement pursuant to subsection (1)(a) of this section *due to employment of the firefighter*, shall receive distribution of the supplement from that local government in twelve (12) equal monthly installments with his or her pay for the last pay period of each month. The monthly distribution shall be calculated by dividing the supplement amount ~~established~~^{set forth} in subsection (1)(a) of this section by twelve (12).
- (b) The supplement disbursed to a qualified professional firefighter pursuant to this section shall not be considered "wages" as defined by KRS 337.010(1)(c)1. and shall not be included in the hourly wage rate for calculation of overtime pursuant to KRS 337.285 for scheduled overtime. The supplement shall be included in the hourly wage rates for calculation of overtime for unscheduled overtime pursuant to KRS 337.285.
- (c) To determine the addition to the hourly wage rate for calculation of overtime on unscheduled overtime, the annual supplement shall be divided by two thousand eighty (2,080). The overtime rate for unscheduled overtime shall be calculated by adding the quotient, which is the amount of the annual supplement divided by two thousand eighty (2,080), to the hourly wage rate and multiplying the total by one and one-half (1.5). The enhanced overtime rate shall be paid only for unscheduled overtime. Scheduled overtime shall be paid at one and one-half (1.5) times the regular hourly wage rate, excluding the supplement.
- (3) ~~Beginning July 1, 2006:~~
- (a) The Kentucky Community and Technical College System shall be entitled to receive annually a supplement equal to the amount determined in subsection (1) of this section for each Kentucky fire and rescue training coordinator employed by the Kentucky Community and Technical College System who meets the qualifications for individual firefighters required in KRS 95A.230, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan; and
- (b) The Department of Military Affairs shall be entitled to receive annually a supplement equal to the amount determined in subsection (1) of this section for each civilian firefighter employed by the Department of Military Affairs who meets the qualifications for individual firefighters required in KRS 95A.230, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan.

Each fire and rescue training coordinator employed by the Kentucky Community and Technical College System and each civilian firefighter employed by the Department of Military Affairs, whose employer receives a supplement pursuant to this subsection, shall receive distribution from that employer of the supplement which his or her qualifications brought to the employer. The supplement distributed shall be in addition to his or her regular salary.

➔Section 13. KRS 95A.262 is amended to read as follows:

- (1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health and Family Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for **Health and Family Services**~~[Human Resources]~~ for hepatitis B inoculations.
- (2)
 - (a) Except as provided in subsection (3) of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273.
 - (b) The commission shall allot~~[eight thousand dollars (\$8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot]~~ eight thousand two hundred fifty dollars (\$8,250), **and beginning on July 1, 2018, the commission shall allot eleven thousand dollars (\$11,000)** annually to each qualifying department.
 - (c) Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars (\$500) of its allotment.
 - (d) If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560.
 - (e) Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and ~~any[such]~~ other matters or standards ~~that[as]~~ will best effect the purposes of the volunteer fire department aid law. A qualifying department shall:
 1. Include at least twelve (12) firefighters;~~[;]~~
 2. **Have** a chief;~~[;and]~~
 3. **Have** at least one (1) operational fire apparatus or one (1) on order; ~~and[;]~~
 4. **Have at least** fifty percent (50%) of ~~its[the]~~ firefighters ~~who[shall]~~ have completed at least one-half (1/2) of one hundred fifty (150) training hours, or as otherwise established by the commission under KRS 95A.240(6), toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours, or as otherwise established by the commission by KRS 95A.240(6), within the second year.

These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations.
 - (f) No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made.
 - (g) A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as **provided**~~[set forth]~~ in this section.
- (3) There shall be allotted two hundred thousand dollars (\$200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing

new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars (\$200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

- (4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.
- (5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.
- (6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.
- (7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.
- (8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.
- (9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:
 - (a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;
 - (b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;
 - (c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;
 - (d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;
 - (e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;
 - (f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and
 - (g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.
- (10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars (\$10,000) or the actual amount of the loss, whichever is less.

- (11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.
- (12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.
- (13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.
- (14) There shall be allotted each year of the 1992-93 biennium one million dollars (\$1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars (\$1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.
- (15) For fiscal year 2004-2005 and each fiscal year thereafter, there is allotted one million dollars (\$1,000,000) from the fund established in KRS 95A.220 to be used by the commission to conduct training-related activities.
- (16) If funding is available from the fund established in KRS 95A.220, the Commission on Fire Protection Personnel Standards and Education may implement the following:
 - (a) A program to prepare emergency service personnel for handling potential man-made and non-man-made threats. The commission shall work in conjunction with the state fire marshal and other appropriate agencies and associations to identify and make maps of gas transmission and hazardous liquids pipelines in the state;
 - (b) A program to provide and maintain a mobile test facility in each training region established by the Commission on Fire Protection Personnel Standards and Education with equipment to administer Comprehensive Physical Aptitude Tests (CPAT) to ascertain a firefighter's ability to perform the physical requirements necessary to be an effective and safe firefighter;
 - (c) A program to provide defensive driving training tactics to firefighters. The commission shall purchase, instruct in the use of, and maintain mobile equipment in each of the training regions, and fund expenses related to equipment replacement;
 - (d) A program to annually evaluate equipment adequacy and to provide for annual physical examinations for instructors, adequate protective clothing and personal equipment to meet NFPA guidelines, and to establish procedures for replacing this equipment as needed;
 - (e) A program to establish a rotational expansion and replacement program for mobile fleet equipment currently used for training and recertification of fire departments;
 - (f) A program to expand and update current EMS, first responder, EMT, and paramedic training and certification instruction; and
 - (g) A program to purchase thermal vision devices to comply with the provisions of KRS 95A.400 to 95A.440.

➔Section 14. KRS 150.150 is amended to read as follows:

- (1) (a) Except as provided in this chapter, all moneys derived from the sale of licenses or from any other source connected with the administration of this chapter shall be promptly paid over to the State Treasurer, who shall deposit such moneys in a special fund, known as the game and fish fund, except that the moneys shall be entered under separate restricted fund accounts, not commingled, and maintained according to generally accepted accounting principles.

(b) Moneys derived from the sale of licenses issued under this chapter shall be under separate restricted fund account from any other proceeds derived from this chapter or from proceeds obtained under any other chapter.

(c) The game and fish fund:

1. Shall be used to:

- a. Carry out the purposes of this chapter and any law or regulation for the protection of wildlife; **and**
- b. ***Pay the annual supplement provided in subsection (1), paragraph (e) of Section 6 of this Act; and***

2. ***Shall not be used for any***~~no~~ other purpose.

- (2) All funds received under KRS 150.110 and 150.520 shall be used by the department for the purpose of enforcing those sections and for the protection and propagation of mussel beds. Any surplus remaining in the fund at the close of each calendar year shall be turned into the general fund of the department.
- (3) In addition to the funds derived pursuant to KRS 186.050(15), the department shall, beginning August 1, 2006, and each fiscal year thereafter, set aside not less than twenty-five thousand dollars (\$25,000) from the game and fish fund for the purpose of promoting hunger relief through specific wildlife management and conservation efforts. The department shall provide for a separate accounting of these funds and shall, by October 1, 2007, and annually thereafter, report on the expenditures made pursuant to this subsection to the Governor and the Legislative Research Commission.
- (4) The department shall prescribe a method to allow any applicant for a license required under KRS 150.175 to make, at the time of application, a voluntary contribution in the amount of two dollars (\$2) for the Becoming an Outdoors-Woman Program or other hunter and angler recruitment and retention program. The voluntary contribution shall be deposited into a separate, restricted account within the game and fish fund. The Becoming an Outdoors-Woman Program shall encourage women in developing skills for outdoor recreational activities including but not limited to hunting and angling. The voluntary contribution shall be automatically added to the cost of the license at the time of sale.

➔Section 15. KRS 439.3401 is amended to read as follows:

- (1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:
 - (a) A capital offense;
 - (b) A Class A felony;
 - (c) A Class B felony involving the death of the victim or serious physical injury to a victim;
 - (d) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer or firefighter while the officer or firefighter was acting in the line of duty;
 - (e) ***A Class B felony involving criminal attempt to commit murder under KRS 506.010 if the victim of the offense is a clearly identifiable peace officer or firefighter acting in the line of duty, regardless of whether an injury results;***
 - (f) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;
 - (g)~~(f)~~ Use of a minor in a sexual performance as described in KRS 531.310;
 - (h)~~(g)~~ Promoting a sexual performance by a minor as described in KRS 531.320;
 - (i)~~(h)~~ Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
 - (j)~~(i)~~ Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;
 - (k)~~(j)~~ Criminal abuse in the first degree as described in KRS 508.100;
 - (l)~~(k)~~ Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;

~~(m)(4)~~ Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or

~~(n)(m)~~ Robbery in the first degree.

The court shall designate in its judgment if the victim suffered death or serious physical injury.

- (2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his or her sentence is commuted to a life sentence shall not be released on probation or parole until he or she has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.
- (3)
 - (a) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.
 - (b) A violent offender who has been convicted of a violation of KRS 507.040 where the victim of the offense was clearly identifiable as a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.
 - (c) A violent offender who has been convicted of a violation of KRS 507.040 or 507.050 where the victim of the offense was a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.
 - (d) Any offender who has been convicted of a homicide or fetal homicide offense under KRS Chapter 507 or 507A in which the victim of the offense died as the result of an overdose of a Schedule I controlled substance and who is not otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.
- (4) A violent offender shall not be awarded any credit on his sentence authorized by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his or her sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.
- (5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.
- (6) This section shall apply only to those persons who commit offenses after July 15, 1998.
- (7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.
- (8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

➔Section 16. Whereas the funding for payments to police officers and firefighters coincides with the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2018.

Signed by Governor April 2, 2018.

CHAPTER 90

(HB 122)

AN ACT relating to fire department reporting.

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

➔Section 1. KRS 65A.010 is amended to read as follows:

As used in this chapter:

- (1) "County" means any county, consolidated local government, urban-county government, unified local government, or charter county;
- (2) "DLG" means the Department for Local Government established by KRS 147A.002;
- (3) "Establishing entity" means the city or county, or any combination of cities and counties, that established a special purpose governmental entity and that has not subsequently withdrawn its affiliation with the special purpose governmental entity by ordinance or other official action;
- (4) "Federally regulated municipal utility" means a municipal utility governed by the provisions of KRS 96.550 to 96.901, that maintains a wholesale power contract with a federal agency that also serves as its regulatory authority;
- (5) (a) "Fee" means any user charge, levy, assessment, fee, schedule of rates, or tax, other than an ad valorem tax, imposed by a special purpose governmental entity.
- (b) "Fee" shall not include the following charges imposed by special purpose governmental entities that provide utility services:
 1. Any fuel cost adjustment that is:
 - a. Made pursuant to an agreement with a power supplier;
 - b. Amended by the power supplier based on the variable cost of fuel; and
 - c. Passed through to the consumer by the utility pursuant to the agreement between the utility and the power supplier;
 2. Any power or energy cost adjustment implemented pursuant to a duly adopted base rate that provides for the periodic adjustment of a component of the rate, including any fuel costs or transmission costs, in accordance with the formula or conditions set forth in the base rate; or
 3. Any environmental control cost adjustments or surcharges implemented pursuant to a duly adopted base rate that provides for the periodic adjustment of a component of the rate in accordance with a formula or conditions set forth in the base rate;
- (6) (a) "Private entity" means any entity whose sole source of public funds is from payments pursuant to a contract with a city, county, or special purpose governmental entity, including funds received as a grant or as a result of a competitively bid procurement process.
- (b) "Private entity" does not include any entity:
 1. Created, wholly or in part, by a city, county, or combination of cities and counties to perform one (1) or more of the types of public services listed in subsection (9)(c) of this section; or
 2. Governed by a board, council, commission, committee, authority, or corporation with any member or members who are appointed by the chief executive or governing body of a city, county, or combination of cities and counties, or whose voting membership includes governmental officials who serve in an ex officio capacity;
- (7) "Public funds" means any funds derived from the levy of a tax, fee, assessment, or charge, or the issuance of bonds by the state or a city, county, or special purpose governmental entity;
- (8) "Registry" means the online central registry and reporting portal established pursuant to KRS 65A.020; and
- (9) (a) "Special purpose governmental entity" or "entity" means any agency, authority, or entity created or authorized by statute which:
 1. Exercises less than statewide jurisdiction;
 2. Exists for the purpose of providing one (1) or a limited number of services or functions;
 3. Is governed by a board, council, commission, committee, authority, or corporation with policy-making authority that is separate from the state and the governing body of the city, county, or cities and counties in which it operates; and

4. a. Has the independent authority to generate public funds; or
- b. May receive and expend public funds, grants, awards, or appropriations from the state, from any agency, or authority of the state, from a city or county, or from any other special purpose governmental entity.
- (b) "Special purpose governmental entity" shall include entities meeting the requirements established by paragraph (a) of this subsection, whether the entity is formed as a nonprofit corporation under KRS Chapter 273, pursuant to an interlocal cooperation agreement under KRS 65.210 to 65.300, or pursuant to any other provision of the Kentucky Revised Statutes.
- (c) Examples of the types of public services that may be provided by special purpose governmental entities include but are not limited to the following:
 1. Ambulance, emergency, and fire protection services;
 2. Flood control, drainage, levee, water, water conservation, watershed, and soil conservation services;
 3. Area planning, management, community improvement, and community development services;
 4. Library services;
 5. Public health, public mental health, and public hospital services;
 6. Riverport and airport services;
 7. Sanitation, sewer, waste management, and solid waste services;
 8. Industrial and economic development;
 9. Parks and recreation services;
 10. Construction, maintenance, or operation of roads and bridges;
 11. Mass transit services;
 12. Pollution control;
 13. Construction or provision of public housing, except as set out in paragraph (d)8. of this subsection;
 14. Tourism and convention services; and
 15. Agricultural extension services.
- (d) "Special purpose governmental entity" shall not include:
 1. Cities;
 2. Counties;
 3. School districts;
 4. Private entities;
 5. Chambers of commerce;
 6. Any incorporated entity that:
 - a. Provides utility services;
 - b. Is member-owned; and
 - c. Has a governing body whose voting members are all elected by the membership of the entity;
 7. Any entity whose budget, finances, and financial information are fully integrated with and included as a part of the budget, finances, and financial reporting of the city, county, or cities and counties in which it operates;
 8. Federally regulated public housing authorities established pursuant to KRS Chapter 80 that receive no more than twenty percent (20%) of their total funding for any fiscal year from nonfederal fees, not including rental income; or

9. a. Any fire protection district or volunteer fire department district operating under KRS Chapter 75 *with the higher of annual receipts from all sources or annual expenditures of less than one hundred thousand dollars (\$100,000)*; or
- b. Any fire department incorporated under KRS Chapter 273~~;~~
~~with the higher of annual receipts from all sources or annual expenditures of less than one hundred thousand dollars (\$100,000)~~.

➔Section 2. KRS 75.430 is amended to read as follows:

~~{(1) Each recognized and certified fire department created pursuant to KRS Chapter 273 with annual receipts from all sources or annual expenditures of greater than one hundred thousand dollars (\$100,000) shall comply with the provisions of KRS 65A.010 to 65A.090.~~

~~(2)]~~The governing body of each ~~{recognized and certified volunteer fire department created pursuant to KRS Chapter 273 or a }~~recognized and certified fire protection district or volunteer fire department district operating under KRS Chapter 75 which, for the year in question, receives from all sources or expends for all purposes less than one hundred thousand dollars (\$100,000), *or the governing body of each recognized and certified volunteer fire department created pursuant to KRS Chapter 273* shall submit financial information to the commission as provided in KRS 95A.055.

~~{(3) The governing body of each recognized and certified volunteer fire department created pursuant to KRS Chapter 273 which, for the year in question, receives from all sources or expends for all purposes one hundred thousand dollars (\$100,000) or more shall prepare a financial statement and shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to perform a review of the financial statement, and shall submit the reviewed statement to the commission by July 31 of each year.}~~

➔Section 3. KRS 95A.055 is amended to read as follows:

(1) As used in this section, "fire department" means:

- (a) Any fire protection district or volunteer fire department district operating under KRS Chapter 75 *with the higher of annual receipts from all sources or annual expenditures of less than one hundred thousand dollars (\$100,000)*; or

(b) Any fire department incorporated under KRS Chapter 273~~;~~

~~with the higher of annual receipts from all sources or annual expenditures of less than one hundred thousand dollars (\$100,000)~~.

(2) If a *fire protection district or volunteer fire department district's*~~{fire department's}~~ annual revenues or expenditures equals or exceeds one hundred thousand dollars (\$100,000) for two (2) consecutive fiscal years, then the fire *district*~~{department}~~ shall, for the next reporting period and any subsequent reporting period for which it exceeds that amount, be considered a special purpose governmental entity as defined in KRS 65A.010 and shall comply with KRS Chapter 65A until its annual revenues or expenditures are less than one hundred thousand dollars (\$100,000), whereupon it may again qualify as a fire department under this section.

(3) Each fire department shall for each fiscal year beginning on and after July 1, 2016, annually submit to the commission the information required by this section. The information shall be submitted at the time and in the form and format required by the commission. The information submitted shall include at a minimum the following:

(a) Administrative information:

1. The name, address, and, if applicable, the term and appointing authority for each board member of the governing body of the fire department;
2. The fiscal year of the fire department;
3. The Kentucky Revised Statute and, if applicable, the local government ordinance under which the fire department was established; the date of establishment; the establishing entity; and the statute or statutes, local government ordinance, or interlocal agreement under which the fire department operates, if different from the statute or statutes, ordinance, or agreement under which it was established;
4. The mailing address and telephone number and, if applicable, the Web site uniform resource locator (URL) of the fire department;

5. The operational boundaries and service area of the fire department and the services provided by the fire department;
 6. A listing of the taxes or fees imposed and collected by the fire department, including the rates or amounts charged for the reporting period and the statutory or other source of authority for the levy of the tax or fee;
 7. The primary contact for the fire department for purposes of communication with the commission;
 8. The code of ethics that applies to the fire department, and whether the fire department has adopted additional ethics provisions;
 9. A listing of all federal, state, and local governmental entities that have oversight authority over the fire department or to which the fire department submits reports, data, or information; and
 10. Any other related administrative information required by the commission; and
- (b) Financial information including budgets and financial expenditure information that are designed to ensure that all public funds received by the fire departments are being responsibly used. The commission shall, through the promulgation of an administrative regulation, establish the specific financial information that shall be filed to meet the requirements of this paragraph.
- (4) The commission shall review the reports required by this section and, if the commission finds that a report submitted does not comply with the requirements established by this section and regulations promulgated hereunder, the commission shall notify the fire department in writing. The notification shall include a description of the specific deficiencies identified, and shall describe the process the fire department shall follow to correct the deficiencies, including the time within which a response must be provided.
- (5) *The commission shall ensure that every fire department shall at least once every four (4) years be subject to a financial review that shall include procedures developed by the commission and approved by the Auditor of Public Accounts in advance. Subsequent changes to these procedures shall also be approved by the Auditor of Public Accounts prior to the period in which they are performed.*
- (6) *The commission may require any fire department with the higher of annual receipts from all sources or annual expenditures equal to or greater than one hundred thousand dollars (\$100,000) but less than five hundred thousand dollars (\$500,000) to once every four (4) years be subject to an independent audit in the manner specified in KRS 65A.030(2).*
- (7) *The commission shall ensure that every fire department with the higher of annual receipts from all sources or annual expenditures equal to or greater than five hundred thousand dollars (\$500,000) for two (2) consecutive fiscal years is audited annually in the manner specified in KRS 65A.030(2) until its annual revenues or expenditures are less than five hundred thousand dollars (\$500,000).*
- (8) *The Auditor of Public Accounts may, upon request, examine and review the reports and all related work papers and documents relating to a financial review or audit under this section.*
- (9) If a fire department fails to comply with this section or KRS 75.430, then the commission may withhold:
- (a) Incentive pay to qualified firefighters under KRS 95A.250;
 - (b) Volunteer fire department aid, funds used to purchase workers' compensation insurance for fire departments, and the low-interest loans under KRS 95A.262;
 - (c) Funds from the thermal vision grant program under KRS 95A.400 to 95A.440; and
 - (d) Any other funds that the commission controls.
- ~~(10)(6)~~ The commission ~~shall~~~~may~~ report any irregularities relating to the finances or operations of a fire department that it identifies to the Attorney General ~~and~~~~the~~ Auditor of Public Accounts, ~~and the commission may notify~~~~or~~ any other public official with jurisdiction over fire departments for further investigation and follow-up.
- ~~(11)(7)~~ The commission may prescribe corrective actions to bring fire departments that are, as of July 15, 2016, not in compliance with KRS Chapter 65A into compliance with this section. Any sanctions imposed by the Department for Local Government prior to July 15, 2016, shall be lifted upon notification by the commission to the department that the fire department in question has complied with the corrective actions prescribed by the commission.

- ~~(12)(8)~~ The information reported by fire departments under this section shall be considered public records under KRS 61.872 to 61.884. The commission shall prominently post on its Web site the availability of the information required by this section and shall provide contact information and procedures for obtaining copies of the information.
- ~~(13)(9)~~ The fire commission shall promulgate administrative regulations under KRS Chapter 13A as soon as practicable after July 15, 2016, to implement this section and KRS 75.430.
- ~~(14)(10)~~ By October 1, 2016, and on or before each October 1 thereafter, the commission shall file an annual report with the Legislative Research Commission detailing the compliance of the fire departments required to report under this section with subsection (3) of this section. The Legislative Research Commission shall refer the report to the Interim Joint Committee on Local Government for review.

Became law without Governor's signature April 9, 2018.

CHAPTER 91

(SJR 158)

A JOINT RESOLUTION requesting the Tourism, Arts and Heritage Cabinet to collaborate with appropriate historical and preservation organizations to identify Civil War battlefield preservation needs and advise on a report submitted by the Civil War Sites Association and the Civil War Trust.

WHEREAS, because of the efforts of early citizen soldiers, the United States of America is the world's oldest and most successful democratic republic; and

WHEREAS, Kentucky was the site of numerous battles during the American Revolutionary War and the Civil War, many of which played a significant role in the outcome of major military campaigns and the course of these wars; and

WHEREAS, the battles of the American Revolutionary War and the Civil War shaped who we are today, and by preserving these battlegrounds as outdoor classrooms, we provide educational opportunities that can serve as a foundation for good citizenship and the development of leaders for tomorrow; and

WHEREAS, preserving these hallowed battlefields provides the opportunity to tell the American story, where ordinary citizens displayed extraordinary valor; and

WHEREAS, the preservation of these battlefields is important to ensure their integrity in perpetuity so that future citizens and visitors can experience the landscapes as our soldiers saw it; and

WHEREAS, the preservation of these battlefields provides civic pride, opportunities for education, commemorative events, and tourism opportunities across the Commonwealth; and

WHEREAS, it has been shown that visitors to historic sites spend more money and stay longer than other tourist subgroups; and

WHEREAS, visitors to Kentucky's battlefields stimulate local economies while enjoying the rich historical, cultural, and natural resources, thereby generating jobs and economic activity;

NOW, THEREFORE,

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

➔Section 1. The Tourism, Arts and Heritage Cabinet is requested to collaborate with the Kentucky Civil War Sites Association and the Civil War Trust to identify historically significant Civil War heritage tourism sites in Kentucky.

➔Section 2. The Tourism, Arts and Heritage Cabinet is requested to participate in a stakeholder meeting which includes representatives from the Kentucky Civil War Sites Association, the Civil War Trust, the Kentucky Travel Industry Association, the Department of Tourism, the Kentucky Heritage Council, the Kentucky Historical Society, and local battlefield support groups in Kentucky suggesting ways to preserve these heritage tourism sites.

➔Section 3. The Tourism, Arts and Heritage Cabinet shall provide feedback to a report submitted by the Civil War Sites Association and the Civil War Trust on or before December 3, 2018, to the Interim Joint Committee on Tourism, Small Business, and Information Technology.

Signed by Governor April 2, 2018.

CHAPTER 92

(SB 203)

AN ACT relating to public-private partnership projects.

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

➔Section 1. KRS 45A.077 is amended to read as follows:

- (1) A public-private partnership delivery method may be utilized as provided in this section and administrative regulations promulgated thereunder. State contracts using this method shall be awarded by competitive negotiation.
- (2) A contracting body utilizing a public-private partnership shall continue to be responsible for oversight of any function that is delegated to or otherwise performed by a private partner.
- (3) On or before December 31, 2016, the secretary of the Finance and Administration Cabinet shall promulgate administrative regulations setting forth criteria to be used in determining when a public-private partnership is to be used for a particular project. The administrative regulations shall reflect the intent of the General Assembly to promote and encourage the use of public-private partnerships in the Commonwealth. The secretary shall consult with design-builders, construction managers, contractors, design professionals including engineers and architects, and other appropriate professionals during the development of these administrative regulations.
- (4) A request for proposal for a project utilizing a public-private partnership shall include at a minimum:
 - (a) The parameters of the proposed public-private partnership agreement;
 - (b) The duties and responsibilities to be performed by the private partner or partners;
 - (c) The methods of oversight to be employed by the contracting body;
 - (d) The duties and responsibilities that are to be performed by the contracting body and any other partners to the contract;
 - (e) The evaluation factors and the relative weight of each to be used in the scoring of awards;
 - (f) Plans for financing and operating the qualifying project and the revenues, service payments, bond financings, and appropriations of public funds needed for the qualifying project;
 - (g) Comprehensive documentation of the experience, capabilities, capitalization and financial condition, and other relevant qualifications of the private entity;
 - (h) The ability of a private partner or partners to quickly respond to the needs presented in the request for proposal, and the importance of economic development opportunities represented by the qualifying project. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds; and
 - (i) Other information required by the contracting body or the cabinet to evaluate the proposals submitted by respondents and the overall proposed public-private partnership.
- (5) A private entity desiring to be a private partner shall demonstrate to the satisfaction of the contracting body or the cabinet that it is capable of performing any duty, responsibility, or function it may be authorized or directed to perform as part of the public-private partnership agreement.

- (6) When a request for proposal for a project utilizing a public-private partnership is issued for a capital project, the contracting body shall transmit a copy of the request for proposal to the Capital Projects and Bond Oversight Committee staff, clearly identifying to the staff that a public-private partnership is being utilized. ***The contracting body shall submit the final contract to the Capital Projects and Bond Oversight Committee under KRS 45.763 before work may be begun on the project.***
- (7) A request for proposal or other solicitation may be canceled, or all proposals may be rejected, if it is determined in writing that the action is taken in the best interest of the Commonwealth and approved by the purchasing officer.
- (8) (a) ***Beginning July 1, 2020***, in the case of any public-private partnership for a capital project with an aggregate value of twenty-five million dollars (\$25,000,000) or more, the project shall be authorized by the General Assembly, by inclusion in the branch budget bill or by any other means ***specified by the General Assembly***, explicitly identifying and authorizing the utilization of a public-private partnership delivery method for the applicable capital project. The authorization of a capital project required by this subsection is in addition to any other statutorily required authorization for a capital project.
- (b) ***The provisions of this subsection shall not apply to any public-private partnership project made public through a request for proposal or a public notice of an unsolicited proposal issued prior to July 1, 2020.***
- ~~(9) Upon issuance of a public-private partnership agreement, the contracting body shall submit the contract to the Government Contract Review Committee for review in accordance with KRS 45A.690 to 45A.725. The contracting body shall ensure that the contract clearly identifies to the committee that a public-private partnership is being utilized. Upon disapproval of or objection to the contract by the committee, the secretary of the Finance and Administration Cabinet in consultation with the contracting body shall determine whether the contract shall be revised to comply with the objections of the committee, be canceled, or remain in effect pursuant to KRS 45A.705(6).~~
- ~~(10)~~ Any corporation as described by KRS 45.750(2)(c), or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth, that manages its capital construction program shall:
- (a) Adhere to the administrative regulations promulgated under this section when utilizing a public-private partnership for financing capital projects;
- (b) Report to legislative committees as specified in this section; and
- (c) Submit public-private partnership agreements issued by it to the General Assembly for authorization as provided in subsection (8) of this section.
- ~~(10)~~~~(11)~~ (a) The governing body of a postsecondary institution that manages its capital construction program under KRS 164A.580 shall:
1. ~~report to the Capital Projects and Bond Oversight Committee staff as specified in this section;~~
and
2. ~~Not be required to comply with the provisions of subsection (9) of this section.~~
- (b) Any provision of a public-private partnership agreement issued by a postsecondary institution which provides for a lease by or to the postsecondary institution shall be valid and enforceable if approved by the governing board of the institution.
- ~~(11)~~~~(12)~~ (a) A person or business may submit an unsolicited proposal to a governmental body, which may receive the unsolicited proposal.
- (b) Within ninety (90) days of receiving an unsolicited proposal, a governmental body may elect to consider further action on the proposal, at which point the governmental body shall provide public notice of the proposal. ***Discussion of the project shall not be deemed a solicitation of the project or its concepts after public notice is given. The public notice***~~and~~ shall:
1. Provide specific information regarding the proposed nature, timing, and scope of the unsolicited proposal, except that trade secrets, financial records, or other records of the person or business making the proposal shall not be posted unless otherwise agreed to by the governmental body and the person or business; and
2. Provide for a notice period for the submission of competing proposals as follows:

- a. Unsolicited proposals valued below five million dollars (\$5,000,000) shall be posted for thirty (30) days;
 - b. Unsolicited proposals valued between five million dollars (\$5,000,000) and twenty-five million dollars (\$25,000,000) shall be posted for sixty (60) days; and
 - c. Unsolicited proposals valued over twenty-five million dollars (\$25,000,000) shall be posted for ninety (90) days.
- (c) Upon the end of the notice period provided under paragraph (b)2. of this subsection, the governmental body may consider the unsolicited proposal and any competing proposals received. If the governmental body determines it is in the best interest of the Commonwealth to implement some or all of the concepts contained within the unsolicited proposal or competing proposals received by it, the governmental body may begin an open, competitive procurement process to do so pursuant to this chapter.
- (d) An unsolicited proposal shall be deemed rejected if no written response is received from the governmental body within ninety (90) days of submission, during which time the governmental body has not taken any action on the proposal under paragraph (b) of this subsection.

Signed by Governor April 2, 2018.

CHAPTER 93

(SB 160)

AN ACT relating to the sale of consumer goods during a state of emergency.

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

➔Section 1. KRS 367.372 is amended to read as follows:

As used in KRS 367.372 to 367.378, unless the context requires otherwise:

- (1) "Building materials" means lumber, construction tools, windows, and anything else used in the building or rebuilding of property;
- (2) "Consumer food item" means any article used or intended for use for food, drink, confection, or condiment by a person or animal;
- (3) ***"Cost" means any cost directly or indirectly related to the sale of a good, provision of a service, or the operation of the seller's business, and includes any actual or anticipated replacement cost;***
- (4) "Emergency supplies" includes but is not limited to water, flashlights, radios, batteries, candles, blankets, soap, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers;
- ~~(5)~~~~(4)~~ "Gasoline" means any fuel used to power any motor vehicle or power tool;
- ~~(6)~~~~(5)~~ "Goods" has the same meaning as in KRS 355.2-105;
- ~~(7)~~~~(6)~~ "Housing" means any rental housing and includes any housing provided by a hotel or motel;
- ~~(8)~~~~(7)~~ "Medical supplies" includes but is not limited to prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products;
- ~~(9)~~~~(8)~~ "Person" has the same meaning as in KRS 446.010;
- (10) *"Price prior to the declaration" means the person's price for a good or service on the day before the date of the Governor's order implementing the provisions of Section 2 of this Act;***
- ~~(11)~~~~(9)~~ "Repair or reconstruction services" means services performed by any person for repairs to residential or commercial property of any type that is damaged as a result of a natural or man-made disaster or emergency resulting from an event referred to in subsection (11) of this section;
- ~~(12)~~~~(10)~~ "Services" means work, labor, or services, including services furnished in connection with the sale or repair of goods or real property or improvements thereto;

~~(13)~~~~(11)~~ "State of emergency" means a natural or man-made disaster resulting from a tornado, earthquake, flood, fire, riot, storm, act of war, threat of war, military action, the time of instability following a terrorist attack, or any other event for which a state of emergency has been proclaimed by the President of the United States or declared by the Governor. It shall also include the duration of a Condition Red as declared by the United States Department of Homeland Security under the Homeland Security Advisory System; and

~~(14)~~~~(12)~~ "Transportation, freight, and storage services" means any service that is performed by a person that contracts to move, store, or transport personal or business property or rents equipment for those purposes.

➔Section 2. KRS 367.374 is amended to read as follows:

- (1) (a) When a Condition Red has been declared by the United States Department of Homeland Security under the Homeland Security Advisory System or the Governor has declared a state of emergency under KRS 39A.100, the Governor may implement this section by executive order for a period of **fifteen (15)**~~thirty (30)~~ days from notification of implementation, as required by KRS 367.376. The order implementing this section shall be limited to the geographical area indicated in the declaration of emergency. ***The Governor may terminate or limit the scope of the order at any time.***
- (b) No person shall sell, rent, or offer to sell or rent, regardless of whether an actual sale or rental occurs, a good or service listed in this paragraph or any repair or reconstruction service for a price which is grossly in excess of the price prior to the declaration and unrelated to any increased cost to the seller. Goods and services to which this section applies are:
 1. Consumer food items;
 2. Goods or services used for emergency cleanup;
 3. Emergency supplies;
 4. Medical supplies;
 5. Home heating oil;
 6. Building materials;
 7. Housing;
 8. Transportation, freight, and storage services; and
 9. Gasoline or other motor fuels.
- (c) A ~~person's~~~~person who increases a~~ price does not violate this subsection if ***it is:***
 1. ***Related***~~the price increase is attributable~~ to an additional cost imposed by a supplier of a good or other costs of providing the good or service, including an additional cost for labor or materials used to provide a service;
 2. ***Ten percent (10%) or less above the price prior to the declaration;***
 3. ***Ten percent (10%) or less above the sum of the person's costs and normal markup for a good or service;***
 4. ***Generally consistent with fluctuations in applicable commodity, regional, national, or international markets, or seasonal fluctuations; or***
 5. ***A contract price, or the result of a price formula, established prior to the order implementing this subsection.***
- (d) ***Whether a price violates this subsection is a question of law. In determining if a violation of this subsection has occurred, the court shall consider all relevant circumstances, including prices prevailing in the locality at that time.***
- (2) The provisions of this section may be extended for ***up to three (3) additional fifteen (15) day periods***~~an additional period, not to exceed thirty (30) days,~~ by the Governor, if necessary to protect the lives, property, or welfare of the citizens.
- (3) If a person sold or rented a good or service listed in subsection (1) of this section at a reduced price in the thirty (30) days prior to the Governor's implementation of this section, the price at which that person usually sells or rents the good or service in the area for which the declaration was issued shall be used in determining if the person is in violation of this section.

- (4) If a person did not sell or rent or offer to sell or rent a good or service listed in subsection (1) of this section prior to the Governor's implementation of this section, the price at which a good or service was generally available in the area for which the declaration was issued shall be used in determining if the person is in violation of this section.

➔Section 3. KRS 367.378 is amended to read as follows:

- (1) A willful violation of KRS 367.374 is punishable by a civil *monetary* penalty of an amount not to exceed five thousand dollars (\$5,000) for the first violation and an amount not to exceed ten thousand dollars (\$10,000) for each subsequent violation, *with an aggregate total not to exceed twenty-five thousand dollars (\$25,000) for any twenty-four (24) hour period against any person who violates Section 2 of this Act. No additional civil monetary penalties may be imposed under this chapter for conduct prohibited by Section 2 of this Act.*
- (2) *Except as provided in subsection (1) of this section*, all of the remedies, powers, and duties provided by KRS Chapter 367 shall apply with equal force and effect to an act declared unlawful by KRS 367.374.
- (3) Nothing in KRS 367.372 to 367.378 shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General which he or she is authorized to exercise or perform under any other provision of law.

Signed by Governor April 2, 2018.

CHAPTER 94

(SB 249)

AN ACT relating to oil and gas hearings.

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

➔Section 1. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
- (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
 - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
 - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
 - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
 - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
 - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
 - (i) Administrative hearings exempted pursuant to subsection (3) of this section;

- (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
 - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- (a) Finance and Administration Cabinet
 - 1. Higher Education Assistance Authority
 - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
 - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
 - 2. Department of Revenue
 - a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
 - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205
 - (b) Cabinet for Health and Family Services
 - 1. Office of Health Policy
 - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
 - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
 - 2. Department for Community Based Services
 - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
 - 3. Department for Income Support
 - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
 - 4. Department for Medicaid Services
 - a. Administrative appeal hearings following an external independent third-party review of a Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to the provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization, conducted under authority of KRS 205.646
 - (c) Justice and Public Safety Cabinet
 - 1. Department of Kentucky State Police
 - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
 - 2. Department of Corrections
 - a. Parole Board hearings conducted under authority of KRS Chapter 439
 - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
 - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
 - 3. Department of Juvenile Justice
 - a. Supervised placement revocation hearings conducted under KRS Chapter 635
 - (d) Energy and Environment Cabinet
 - 1. Department for Natural Resources

- a. Surface mining hearings conducted under authority of KRS Chapter 350
 - b. ***Oil and gas hearings conducted under the authority of KRS Chapter 353, except for those conducted by the Kentucky Oil and Gas Conservation Commission pursuant to KRS 353.500 to 353.720***
 - 2. Department for Environmental Protection
 - a. Wild River hearings conducted under authority of KRS Chapter 146
 - b. Water resources hearings conducted under authority of KRS Chapter 151
 - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
 - d. Environmental protection hearings conducted under authority of KRS Chapter 224
 - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
 - 3. Public Service Commission
 - a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
 - (e) Labor Cabinet
 - 1. Department of Workers' Claims
 - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
 - 2. Kentucky Occupational Safety and Health Review Commission
 - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
 - (f) Public Protection Cabinet
 - 1. Kentucky Claims Commission
 - a. Liability hearings conducted under authority of KRS 49.020(1) and 49.040 to 49.180
 - (g) Education and Workforce Development Cabinet
 - 1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
 - (h) Secretary of State
 - 1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121
 - (i) State universities and colleges
 - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
 - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
 - 3. Campus residency hearings conducted under authority of KRS Chapter 164
 - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
 - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
- (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

- (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
 - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

➔Section 2. KRS 353.060 is amended to read as follows:

If the drilling of a well on any tract underlain with coal-bearing strata will endanger the present or future use or operation of a workable coal bed, the owner or coal operator affected may, within fifteen (15) days from the receipt of the plat by him and by the department, file with the **Energy and Environment Cabinet's Office of Administrative Hearings a petition in accordance with Section 11 of this Act and any administrative regulations promulgated thereunder, listing the**~~department~~ specific objections in writing to the proposed location. **The Energy and Environment Cabinet's Office of Administrative Hearings shall provide notice of receipt of the petition to the well operator and the department, and shall schedule a hearing,**~~and, if the objections are so filed, the department shall notify the well operator of the character of the objections and shall fix a time and place for a hearing, to be conducted in accordance with KRS Chapter 13B,~~ at which~~hearing~~ the objections shall be considered. At the hearing, the well operator and the coal operator or owner, in person or by a representative, shall consider the objections and either agree upon the location as proposed or change it so as to satisfy all objections and meet the approval of the department. Any new location thus selected and agreed upon shall be indicated on a plat in accordance with KRS 353.050 and thereupon the department shall issue to the well operator a drilling permit approving the~~new~~ location and authorizing the well operator to drill at the location. If the coal operator and well operator, or the owner and well operator, are unable to agree, the **hearing officer**~~department~~ shall **make a recommendation to the secretary**~~by final order~~, in view of the purposes and intent of this chapter and in compliance therewith, **to fix a location on the tract as near the proposed location as possible and upon final order of the secretary, the department** shall issue to the well operator a permit to drill at the new location. If no objections are filed within the fifteen (15) day period, the department shall immediately issue to the well operator a drilling permit approving the location and authorizing the well operator to proceed to drill there.

➔Section 3. KRS 353.200 is amended to read as follows:

- (1) The department shall exercise supervision over the drilling, casing, plugging, and filling of all wells. The department shall exercise supervision over all mining operations in close proximity to any well. The department shall have access to the records and properties of coal and oil and gas operators when necessary.
- (2) The department may receive, or may file on its own motion, formal complaints **with the Energy and Environment Cabinet's Office of Administrative Hearings** that drilling or mining operations are being conducted contrary to the provisions of KRS 353.010, 353.050 to 353.130, 352.510, or 353.592, or to ~~an~~**the** order of the department~~, and shall hold administrative hearings on the complaints, in accordance with KRS Chapter 13B~~. Following a hearing, the **secretary**~~department~~ shall issue a final order necessary to secure the proper administration of KRS 353.010, 353.050 to 353.130, 352.510, or 353.592.

➔Section 4. KRS 353.510 is amended to read as follows:

As used in KRS 353.500 to 353.720, unless the context otherwise requires:

- (1) "Department" means the Department for Natural Resources;
- (2) "Commissioner" means the commissioner of the Department for Natural Resources;

- (3) "Director" means the director of the Division of Oil and Gas as provided in KRS 353.530;
- (4) "Commission" means the Kentucky Oil and Gas Conservation Commission as provided in KRS 353.565;
- (5) "Person" means any natural person, corporation, association, partnership, receiver, governmental agency subject to KRS 353.500 to 353.720, trustee, so-called common-law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (6) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive or receive, without waste, the oil and gas in and under or produced from a tract or tracts in which the person owns or controls an interest, or proceeds thereof;
- (7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;
- (8) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined in subsection (7) of this section as oil;
- (9) "Pool" means:
 - (a) An underground reservoir containing a common accumulation of oil or gas or both; or
 - (b) An area established by *the department or* the commission as a pool.

Each productive zone of a general structure which is completely separated from any other zone in the structure, or which for the purpose of KRS 353.500 to 353.720 may be so declared by the department, is covered by the word "pool";

- (10) "Field" means the general area which is underlaid or appears to be underlaid by at least one (1) pool; and "field" includes the underground reservoir containing oil or gas or both. The words "field" and "pool" mean the same thing when only one (1) underground reservoir is involved; however, "field," unlike "pool," may relate to two (2) or more pools;
- (11) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts;
- (12) "Abandoned," when used in connection with a well or hole, means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of oil or gas or for the injection or disposal of fluid therein;
- (13) "Workable bed" means:
 - (a) A coal bed actually being operated commercially;
 - (b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years; or
 - (c) A coal bed which, from outcrop indications or other definite evidence, proves to the satisfaction of the commissioner to be workable, and which, when operated, will require protection if wells are drilled through it;
- (14) "Well" means a borehole:
 - (a) Drilled or proposed to be drilled for the purpose of producing gas or oil;
 - (b) Through which gas or oil is being produced; or
 - (c) Drilled or proposed to be drilled for the purpose of injecting any water, gas, or other fluid therein or into which any water, gas, or other fluid is being injected;
- (15) "Shallow well" means any well drilled and completed at a depth of six thousand (6,000) feet or less except, in the case of any well drilled and completed east of longitude line 84 degrees 30'; shallow well means any well drilled and completed at a depth of six thousand (6,000) feet or above the base of the lowest member of the Devonian Brown Shale, whichever is the deeper in depth;
- (16) "Deep well" means any well drilled and completed below the depth of six thousand (6,000) feet or, in case of a well located east of longitude line 84 degree 30', a well drilled and completed at a depth below six thousand (6,000) feet or below the base of the lowest member of the Devonian Brown Shale, whichever is deeper;

- (17) "Operator" means:
- (a) For a deep well, any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others. In the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as the royalty owner to the extent of the prevailing royalty in the oil and gas in that portion of the pool underlying the tract owned by the owner, and as operator as to the remaining interest in such oil and gas. In the event the oil is owned separately from the gas, the owner of the right to develop, operate, and produce the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool; and
 - (b) For a shallow well, any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas therefrom, either for himself or herself, or for himself or herself and others. If there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as operator to the extent of seven-eighths (7/8) of the oil and gas in that portion of the pool underlying the tract owned by the owner, and as a royalty owner as to the one-eighth (1/8) interest in the oil and gas. If the oil is owned separately from the gas, the owner of the right to develop, operate, and produce the substance being produced or sought to be produced from the pool shall be considered as operator as to the pool;
- (18) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that the owner is not an operator as defined in subsection (17) of this section;
- (19) "Drilling unit" generally means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum oil or gas reasonably recoverable in the area. Where the regulatory authority has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;
- (20) "Underground source of drinking water" means those subsurface waters identified as in regulations promulgated by the department which shall be consistent with the definition of underground source of drinking water in regulations promulgated by the Environmental Protection Agency pursuant to the Safe Drinking Water Act, 42 U.S.C. secs. 300(f) et seq.;
- (21) "Underground injection" means the subsurface emplacement of fluids by well injection but does not include the underground injection of natural gas for purposes of storage;
- (22) "Endangerment of underground sources of drinking water" means underground injection which may result in the presence in underground water, which supplies or can reasonably be expected to supply any public water system, of any contaminant and if the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons;
- (23) "Class II well" means wells which inject fluids:
- (a) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;
 - (b) For enhanced recovery of oil or natural gas; and
 - (c) For storage of hydrocarbons which are liquid at standard temperature and pressure;
- (24) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state;
- (25) "Horizontal well" means a well, the wellbore of which is initially drilled on a vertical or directional plane and which is curved to become horizontal or nearly horizontal, in order to parallel a particular geological formation and which may include multiple horizontal or stacked laterals;
- (26) "Vertical well" means a well, the wellbore of which is drilled on a vertical or directional plane into a formation and is not turned or curved horizontally to allow the wellbore additional access to the oil and gas reserves in the formation;
- (27) "Prevailing royalty" means the royalty rate or percentage that the *department or the* commission determines is the royalty most commonly applicable with regard to the tract or unit in the issue. The royalty rate set by the *department or the* commission shall not be less than one-eighth (1/8) or twelve and one-half percent (12.5%);

- (28) "Best management practices" means demonstrated practices intended to control site runoff and pollution of surface water and groundwater to prevent or reduce the pollution of waters of the Commonwealth;
- (29) "Abandoned storage tank facility" means any aboveground storage tank or interconnected grouping of tanks that is no longer being actively used and maintained in conjunction with the production and storage of crude oil or produced water;
- (30) "Spill prevention, control, and countermeasure structures" means containment structures constructed around a storage facility to contain facility discharges;
- (31) "Landowner" means any person who owns real property where an abandoned storage tank facility is currently located;
- (32) "Chemical Abstracts Service" means the division of the American Chemical Society that is the globally recognized authority for information on chemical substances;
- (33) "Chemical abstracts service number" means the unique identification number assigned to a chemical by the Chemical Abstracts Service;
- (34) "Chemical" means any element, chemical compound, or mixture of elements or compounds that has its own specific name or identity, such as a chemical abstracts service number;
- (35) "Chemical disclosure registry" means the chemical registry known as FracFocus developed by the Groundwater Protection Council and the Interstate Oil and Gas Compact Commission. If that registry becomes permanently inoperable, the chemical disclosure registry shall mean another publicly accessible Web site that is designated by the commissioner;
- (36) "Division" means the Kentucky Division of Oil and Gas;
- (37) "Emergency spill or discharge" means an uncontrolled release, spill, or discharge associated with an oil or gas well or production facility that has an immediate adverse impact to public health, safety, or the environment as declared by the secretary of the cabinet;
- (38) "Health professional" means a physician, physician assistant, nurse practitioner, registered nurse, or emergency medical technician licensed by the Commonwealth of Kentucky;
- (39) "High-volume horizontal fracturing treatment" means the stimulated treatment of a horizontal well by the pressurized application of more than eighty thousand (80,000) gallons of water, chemical, and proppant, combined for any stage of the treatment or three hundred twenty thousand (320,000) gallons in the aggregate for the treatment used to initiate or propagate fractures in a geological formation for the purpose of enhancing the extraction or production of oil or natural gas;
- (40) "Proppant" means sand or any natural or man-made material that is used in a hydraulic fracturing treatment to prop open the artificially created or enhanced fractures once the treatment is completed;
- (41) "Total water volume" means the total quantity of water from all sources used in a high-volume hydraulic fracturing treatment;
- (42) "Trade secret" means information concerning the volume of a chemical or relative concentration of chemicals used in a hydraulic fracturing treatment that:
 - (a) Is known only to the hydraulic fracturing treatment's owners, employees, former employees, or persons under contractual obligation to hold the information in confidence;
 - (b) Has been perfected and appropriated by the exercise of individual ingenuity which gives the hydraulic fracturing treatment's owner an opportunity to retain or obtain an advantage over competitors who do not know the information; and
 - (c) Is not required to be disclosed or otherwise made available to the public under any federal or state law or administrative regulation;
- (43) "Cabinet" means the Energy and Environment Cabinet;~~{and}~~
- (44) "Stratigraphic test well" means an exploratory borehole drilled for the sole purpose of acquiring subsurface geological and structure test data; **and**
- (45) ***"Notice" means the sending of certified mail to the last known address. The date of delivery shall be the earlier of the date shown on the certified mail return receipt or the date thirty (30) days after the date shown on the postal service proof of mailing. For the purposes of Sections 7, 8, 9, and 11 of this Act, any unknown***

or nonlocatable owner shall be deemed to have received notice, provided that the person giving the notice has caused to be published, no more than thirty (30) days prior to the submission of an application or order issued pursuant to an application, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, affected or proposed to be affected, is located. The applicant shall provide a copy of the published notification to the director within twenty (20) days of the date of publication. The notice shall:

- (a) State, as applicable, that an application is being filed with the division or that an order has been issued pursuant to an application filed with the division;*
- (b) Describe any tract, or portion thereof, affected or proposed to be affected;*
- (c) In the case of an unknown owner, identify the name of the last known owner;*
- (d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and*
- (e) State that any party claiming an interest in any tract, or portion thereof, affected or proposed to be affected, shall contact the operator at the published address.*

➔Section 5. KRS 353.590 is amended to read as follows:

- (1) Any person seeking a permit required by KRS 353.570 shall submit to the department a written application in a form prescribed by the department.
- (2) Each application shall be accompanied by a specified fee as follows:
 - (a) The fee shall be three hundred dollars (\$300) for each well to be drilled, deepened, or reopened for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole.
 - (b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended), the department may, by administrative regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars (\$50) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen, or reopen a well for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by administrative regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the Underground Injection Control Program less any other state or federal funds which are made available for this purpose.
 - (c) All money paid to the State Treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended).
- (3) Applications for each deep well shall be assessed a fee according to the following schedules:
 - (a) For a vertical deep well:
 - 1. With a total vertical depth of seven thousand (7,000) feet or less, the fee shall be five hundred dollars (\$500); and
 - 2. With a total vertical depth greater than seven thousand (7,000) feet, the fee shall be six hundred dollars (\$600); and
 - (b) For a horizontal deep well:
 - 1. With a total measured well depth of ten thousand (10,000) feet or less, the fee shall be five thousand dollars (\$5,000);
 - 2. With a total measured well depth greater than ten thousand (10,000) feet, the fee shall be six thousand dollars (\$6,000); and
 - 3. Five hundred dollars (\$500) for each additional lateral.
- (4) For a horizontal deep well, each additional deep horizontal well located on the same well pad shall be assessed the following fee:
 - (a) Three thousand dollars (\$3,000) for a total measured well depth up to ten thousand (10,000) feet; and

- (b) Four thousand dollars (\$4,000) for a total measured well depth greater than ten thousand (10,000) feet.
- (5) All money paid to the State Treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.
- (6) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the administrative regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by a professional land surveyor licensed in accordance with the provisions of KRS Chapter 322.
- (7) When any person submits to the department ~~for Natural Resources~~ an application for a permit to drill a well, or to reopen, deepen, or temporarily abandon any well which is not covered by surety bond, the department shall, except as provided in this section, require from the well operator the posting of a bond. Bonds for deep wells are posted for the purpose of ensuring well plugging and reclamation of disturbed areas. The bond for plugging shallow wells shall be posted in accordance with the following schedule:
- | Well Depth | Bond Amount |
|--------------------------------|-------------|
| 0 to 500 feet | \$500.00 |
| 501 feet to 1,000 feet | \$1,000.00 |
| 1,001 feet to 1,500 feet | \$1,500.00 |
| 1,501 feet to 2,000 feet | \$2,000.00 |
| 2,001 feet to 2,500 feet | \$2,500.00 |
| 2,501 feet to 3,000 feet | \$3,000.00 |
| 3,001 feet to 3,500 feet | \$3,500.00 |
| 3,501 feet to 4,000 feet | \$4,000.00 |
| 4,001 feet to 4,500 feet | \$5,000.00 |
| 4,501 feet to 5,000 feet | \$6,000.00 |
| 5,001 feet to 5,500 feet | \$7,000.00 |
| 5,501 feet to 6,000 feet | \$8,000.00 |
- (8) Plugging and reclamation bonds for vertical deep wells shall be twenty-five thousand dollars (\$25,000). However, the commission may establish a higher bonding amount for vertical deep wells if the anticipated plugging and reclamation costs exceed the minimum bonding amounts established in this section.
- (9) The minimum amount of plugging and reclamation bond for a horizontal deep well shall be forty thousand dollars (\$40,000). However, the commission may establish a bond amount greater than forty thousand dollars (\$40,000) if the anticipated plugging and reclamation costs exceed the minimum bond.
- (10) (a) All bonds required to be posted under this section for plugging shallow wells shall:
1. Be made in favor of the department ~~for Natural Resources~~;
 2. Be conditioned that the wells, upon abandonment, shall be plugged in accordance with the administrative regulations of the department and that all records required by the department be filed as specified; and
 3. Remain in effect until the plugging of the well is approved by the department, or the bond is released by the department.
- (b) All bonds required to be posted under this section for plugging deep wells shall:
1. Be made in favor of the department ~~for Natural Resources~~;
 2. Be conditioned that the wells, upon abandonment, shall be plugged and the disturbed area reclaimed in accordance with the statutes and the administrative regulations of the department and that all records required by the department be filed as specified; and
 3. Remain in effect until the plugging of the well and the reclamation of the disturbed area is approved by the department or the bond is released by the department.

- (11) An operator may petition the department to amend the drilling depth and bond amount applicable to a particular well and shall not proceed to drill to a depth greater than that authorized by the department until the operator is so authorized, except pursuant to administrative regulations promulgated by the department.
- (12) (a) Any qualified shallow well operator, in lieu of the individual bond, may file with the department a blanket bond according to the following tiered structure:
 - 1. One (1) to twenty-five (25) wells require a ten thousand dollar (\$10,000) bond;
 - 2. Twenty-six (26) to one hundred (100) wells require a twenty-five thousand dollar (\$25,000) bond;
 - 3. One hundred one (101) to five hundred (500) wells require a fifty thousand dollar (\$50,000) bond; and
 - 4. Five hundred one (501) or more wells require a one hundred thousand dollar (\$100,000) bond.(b) Any nonqualified shallow well operator, in lieu of an individual bond, may file with the department a blanket bond according to the following tiered structure:
 - 1. One (1) to one hundred (100) wells require a fifty thousand dollar (\$50,000) bond; and
 - 2. One hundred one (101) or more wells require a one hundred thousand dollar (\$100,000) bond.
- (13) To qualify for a blanket bond for a shallow well under the tiered structure set forth in subsection (12)(a) of this section, an operator shall:
 - (a) Have a blanket bond in place filed with the department prior to July 15, 2006, and have no outstanding, unabated violations of KRS Chapter 353 or regulations adopted pursuant thereto which have not been appealed;
 - (b) Demonstrate for a period of thirty-six (36) months prior to the request for blanket bonding a record of compliance with the statutes and administrative regulations of the division; or
 - (c) Provide proof of financial ability to plug and abandon wells covered by the blanket bond.
- (14) In addition to the requirements set forth in subsection (15) of this section, proof of financial ability set forth in subsection (13)(c) of this section shall be established by an audited financial statement that satisfies at least two (2) of the following ratios:
 - (a) A ratio of total liabilities to net worth less than two (2); or
 - (b) A ratio of the sum of net income plus depreciation, depletion, and amortization to total liability greater than one-tenth (0.1); or
 - (c) A ratio of current assets to current liabilities greater than one and five-tenths (1.5).
- (15) If the operator is a corporate subsidiary, the operator further shall provide a corporate guarantee in which the guarantor shall be the parent corporation of the operator of the wells covered under the bond. The corporate guarantee shall provide:
 - (a) That if the operator fails to perform with the proper plugging and abandonment of any well covered by the blanket bond, the guarantor shall do so or provide for alternate financial assurance; and
 - (b) The corporate guarantee shall remain in force unless the guarantor sends notice of the cancellation by certified mail to the operator and to the department. Cancellation shall not occur, however, during the one hundred twenty (120) day period beginning on the first day that both the operator and the department have received notice of cancellation, as evidenced by the certified mail return receipts.
- (16) An operator shall not be eligible for blanket bonding if the operator has:
 - (a) More than ten (10) violations of KRS Chapter 353 or the regulations adopted pursuant thereto within the thirty-six (36) month period;
 - (b) Any outstanding, unabated violations of KRS Chapter 353 or the regulations adopted pursuant thereto which have not been appealed;
 - (c) A forfeiture of a bond, whether an individual bond or portion of a blanket bond, on any permit where the operator has not entered into an agreed order with the department for the plugging and proper abandonment of the well or wells on the forfeited permit or permits; or

- (d) A permit or permits, upon which a bond or portion of a bond has been forfeited and the proceeds from the forfeiture have been spent by the department to plug or reclaim the permitted well or wells, unless the operator has made restitution to the department for all costs associated with the forfeiture, plugging, and proper abandonment.
- (17) Any deep well operator, in lieu of an individual bond, may file with the department a blanket bond according to the following:
 - (a) One (1) to ten (10) vertical deep wells require a two hundred thousand dollar (\$200,000) bond; and
 - (b) One (1) to ten (10) horizontal deep wells require a three hundred twenty thousand dollar (\$320,000) bond.
- (18) A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds.
- (19) Individuals acquiring a single well for domestic use may post a combination bond which shall consist of a cash bond in the amount of one thousand dollars (\$1,000) plus a lien on the property to cover future plugging costs. Only one (1) combination bond may be posted by each individual.
- (20) A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may serve for an individual well bond. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may serve for a blanket bond, provided that the first five thousand dollars (\$5,000) of the blanket bond is posted with the department in cash.
- (21) The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth.
- (22) A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the oil and gas well plugging fund, created in subsection (28) of this section, to be used in accordance with the purposes described therein. All cash bonds being held by the department on July 13, 1990, shall likewise be deposited in the interest-bearing account, with the proceeds to be used for the purposes established for the oil and gas well plugging fund.
- (23) The bond amounts prescribed by subsection (7) of this section shall be applicable only to permits issued upon and after July 15, 2006. All bonds posted for permits issued prior to July 15, 2006, shall remain in full force and effect for the duration of the permits.
- (24) The blanket bond amounts prescribed by subsection (12) of this section shall be effective upon and after July 15, 2006. Any operator having filed a blanket bond with the department prior to July 15, 2006, may at its discretion increase the level of the blanket bond incrementally by increasing the blanket bond by the amount of the individual bond prescribed by subsection (12) of this section on any wells drilled subsequent to July 15, 2006, until the blanket bond has reached the level prescribed by subsection (12) of this section.
- (25) A successor to the well operator shall post bond, pay a twenty-five dollar (\$25) fee per well to the department, and notify the department in writing in advance of commencing use or operation of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee.
- (26) If the requirements of this section with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department, by administrative regulation, or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit.
 - (a) The notice shall specify in what respects the operator has failed to comply with this chapter or the administrative regulations of the department.
 - (b) If, *within forty-five (45) days after mailing of the notice of noncompliance, no agreement has been reached with the department regarding the alleged failure to comply, and the director determines that the operator has not complied with the requirements set forth by the department*~~the operator has not reached an agreement with the department or has not complied with the requirements set forth by it~~

~~within forty five (45) days after mailing of the notice],~~ the bond shall be **ordered** forfeited to the department. ***The forfeiture order shall become effective thirty (30) days after the department gives the operator notice of the order, unless a petition has been filed pursuant to Section 11 of this Act, in which case the forfeiture order shall only become effective upon a final determination of the secretary affirming the forfeiture order following the conclusion of the petition process.***

- (27) A bond forfeited pursuant to the provisions of this chapter may be collected by an attorney for the department or by the Attorney General, after notice from the director~~[of the Division of Oil and Gas]~~.
- (28) All sums received under this section or through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the oil and gas well plugging fund, which shall be an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.
- (29) (a) Any permitted stratigraphic test well:
 - 1. Is subject to all requirements under this section and KRS 353.5901, 353.550, 353.610, and 353.660(1) and (4) as if the stratigraphic test well were defined as a "well" in KRS 353.510(14); and
 - 2. Shall be plugged within one hundred eighty (180) days of completion of drilling the well.
- (b) A stratigraphic test well shall be permitted as an oil and gas production well prior to:
 - 1. Producing oil or gas; or
 - 2. Deviating from true vertical.
- (c) Any stratigraphic test well converted to an oil or gas production well under paragraph (b) of this subsection shall be subject to the requirements of KRS 353.660(1) to (3).
- (30) For the purpose of this chapter, "water supply well" shall not include:
 - (a) Any well for a potable water supply for domestic use or for livestock; or
 - (b) Any water well used primarily for cooling purposes in an industrial process.
- (31) Notwithstanding the provisions of KRS Chapter 353 or this section, no operator shall be eligible to receive additional permits if that operator or any entity in which it has an ownership interest has:
 - (a) Any outstanding, unabated violations of KRS Chapter 353 or the regulations adopted pursuant thereto, which have not been appealed;
 - (b) A forfeiture of a bond, whether an individual bond or portion of a blanket bond, on any permit where the operator has not entered into an agreed order with the department for the plugging and proper abandonment of the well or wells on the forfeited permit or permits; or
 - (c) A permit or permits upon which a bond or portion of a bond has been forfeited, and the proceeds therefrom having been spent by the department to plug or reclaim the permitted well, or wells, unless the operator has made restitution to the department for all costs associated with the forfeiture, plugging, and proper abandonment.
- (32) ***Any order or final determination of the department under this section shall be subject to review in accordance with Section 11 of this Act and any administrative regulations promulgated thereunder.***
 - ➔Section 6. KRS 353.5901 is amended to read as follows:
 - (1) A well operator shall submit to the department an operations and reclamation plan at the time of filing an application for permit to drill, deepen, or reopen a well. The plan shall be filed on forms provided by the department and shall include:
 - (a) A narrative description of those best management practices intended to be employed to prevent pollution, erosion, and sedimentation from the well site and all disturbed areas, including roads. The

description shall be updated when the best management practices utilized on site differ from those described in the plan;

- (b) A narrative description of the location of all areas to be disturbed, including the location of roads, gathering lines, the well site, tanks and other storage facilities, and any other information that may be required by the department. Accompanying this narrative description shall be a plat depicting the location on the land of all of these disturbances or facilities; and
 - (c) Any additional information that the department may require.
- (2) The plan shall include at a minimum a narrative describing the following categories:
- (a) Site plans;
 - (b) Construction practices to be used;
 - (c) Reclamation methods to be used after well completion;
 - (d) Maintenance of the reclaimed site; and
 - (e) Site closure describing plugging, abandonment, and reclamation procedures.
- (3) The department shall review and approve the operations and reclamation plan prior to permit issuance in cases where there has not been a severance of the ownership of the oil and gas from the ownership of the surface to be disturbed.
- (4) In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface and the surface owners of all disturbed areas have not signed agreements with the well operator agreeing to the operations and reclamation plan, at the time of filing the application the well operator shall cause to be delivered to the surface owners of all disturbed areas who have not agreed to the operations and reclamation plan, by certified mail, return receipt requested:
- (a) A copy of the operations and reclamation plan required by paragraph (a) of subsection (1) of this section, and the narrative description of land disturbances and plat required by paragraph (b) of subsection (1) of this section; and
 - (b) A notice to read as follows: "If you do not agree with the proposed use of your land by the well operator, the well operator may request mediation of your dispute by the **Energy and Environment Cabinet's Office of Administrative Hearings**~~General Counsel's Office of the Department for Natural Resources~~. If mediation is requested, and you decide to participate, each party to the mediation will be charged one hundred dollars (\$100) to help cover the cost of mediation. You will be notified of the time and place for mediation, if the well operator chooses mediation, and of your right to participate."

The certified mail receipt, when returned, shall be filed by the well operator with the department and made part of the permit application.

- (5) If the well operator has been unable to reach agreement with the surface owners of all areas to be disturbed in all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, the permit required by this chapter shall not be issued until the dispute has been referred to mediation **to be conducted by the Energy and Environment Cabinet's Office of Administrative Hearings**~~General Counsel's Office of the Department for Natural Resources~~, and mediation has been concluded either by agreement between the parties or by a report of the mediator, in accordance with subsection (6) of this section.
- (6) The well operator may request mediation any time after filing the permit application, and all parties participating in the mediation shall pay a nonrefundable fee of one hundred dollars (\$100) to the Kentucky State Treasurer, which shall be for the sole use of the department and shall be in addition to any money appropriated by the General Assembly for the use of the department. The department may waive the mediation fee for surface owners who submit verifiable proof of financial inability to pay. The department shall notify the well operator and all surface owners of areas to be disturbed by drilling who have not agreed to the operation and reclamation plan of the date and time mediation shall be conducted by certified mail, return receipt requested. The department shall conduct mediation at the site proposed to be disturbed within fifteen (15) days from the date requested, if practicable. At the mediation, the mediator will attempt to facilitate an agreement between the well operator and the surface owner. If an agreement is not forthcoming after mediation, the mediator shall, within five (5) days after mediation, issue a report to the director~~of the Division of Oil and Gas~~ recommending that the director:

- (a) Accept the plan as submitted by the well operator; or
 - (b) Accept the plan with modifications set forth by the mediator.
- (7) If an agreement between the well operator and the surface owners of all disturbed areas is not forthcoming after mediation, the mediator shall consider the following factors as to the reasonable use of the surface by the well operator in issuing a report to the director:
- (a) The location of roads, gathering lines, and tank batteries;
 - (b) The timing of the operation, considering seasonal uses of the land by the surface owner and the need of the well operator to drill expeditiously;
 - (c) The impact on the other uses of the land by the surface owner, including the location of timber, houses, barns, ponds, crops, and other improvements;
 - (d) Whether the plan includes a plan for timely, effective reclamation of all disturbed areas; and
 - (e) Any other information deemed appropriate by the mediator.
- (8) The director shall ***make a final agency determination***~~[act upon the recommendation of the mediator]~~ within five (5) days of the receipt of the mediation report ***accepting the plan as submitted by the well operator, accepting the plan with modifications set forth by the mediator, or approving a plan containing elements of both the original and the modified plan.***
- (9) ***Any order or final determination of the department under this section shall be subject to review in accordance with Section 11 of this Act and any administrative regulations promulgated thereunder.***

➔Section 7. KRS 353.620 is amended to read as follows:

- (1) Notwithstanding KRS 353.610, if an application is submitted for a permit to drill, deepen, or reopen a well closer to a boundary or to another well than prescribed in KRS 353.610 and the application is accompanied by the written consent of all owners of oil and gas interests ***within the distance prescribed***~~[in the adjacent premises directly affected by the prescribed boundary distances]~~ in KRS 353.610, which will be offset by the proposed well, the department shall issue a permit for the well.
- (2) Notwithstanding KRS 353.610, ***if an application is submitted for a permit to drill, deepen, or reopen a well closer to a boundary or to another well than prescribed in KRS 353.610, and the director determines after notice to all owners of oil and gas interests within the distance prescribed in KRS 353.610 that topographical or other factors delineated by subsurface geologic mapping or reservoir analytical data make compliance with the requirements of KRS 353.610 unduly burdensome, or in conflict with reasonably prudent methods and practices for the production of oil or gas,*** the department may issue a permit for ~~the [a] well [to be drilled, deepened, or reopened closer to a boundary or another well than prescribed in KRS 353.610, if the director, after notice and hearing, finds that topographical or other conditions are such as to make compliance with the requirements of KRS 353.610 unduly burdensome or in conflict with reasonably prudent methods and practices for the production of oil or gas].~~ ***The application may include but not be limited to core analysis, geophysical or electric log data, reservoir pressure analysis, or other information demonstrating to the satisfaction of the director that such relief is warranted.***
- (3) Notwithstanding KRS 353.610, the department shall issue a permit for a well to be drilled, deepened, or reopened closer to a boundary than prescribed in KRS 353.610 if a pooling order has been issued pursuant to KRS 353.630.
- (4) If a permit is issued to drill, deepen, or reopen a well under subsection (1) or (2) of this section at a location closer to a well or boundary than prescribed in KRS 353.610, the department shall permit a like variance from the requirements of KRS 353.610 on all premises offset and adversely affected by the well.
- (5) ***Any order or final determination of the department under this section shall be subject to review in accordance with Section 11 of this Act and any administrative regulations promulgated thereunder.***

➔Section 8. KRS 353.630 is amended to read as follows:

- (1) Whenever any separate tract of land is so situated because of size or other condition that it does not contain a location at which a well for oil or gas may be drilled, deepened, or reopened by reason of the spacing provisions of KRS 353.610, the department shall order, after notice and, ***for those required to be given notice, opportunity for comment within thirty (30) days of the date shown on the postal service proof of mailing, or, where notice is provided by publication, within thirty (30) days of the date of the publication***~~[a hearing]~~, the

pooling of all oil and gas interests in the separate tract or in a portion thereof with all like interests in a contiguous tract or tracts, or portions thereof, as are necessary to afford the pooled tracts one (1) location for the drilling, deepening, or reopening of a well for the production of oil or gas in compliance with the spacing requirements of KRS 353.500 to 353.720. The department shall require the development and operation of all pooled acreage as a single leasehold estate in accordance with regulations and rules promulgated under KRS 353.500 to 353.720.

- (2) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of separate tracts or interests in order to comply with the spacing requirements of KRS 353.610, and the operator has secured the written consent or agreement from the owners of at least fifty-one percent (51%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the department shall, where it finds that the requirements of this subsection have been met, order, after notice, ***and for those required to be given notice, opportunity for comment within thirty (30) days of the date shown on the postal service proof of mailing, or, where notice is provided by publication, within thirty (30) days of the date of the publication***~~and a hearing~~, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage as established by the spacing requirements of KRS 353.610. ***A pooling order shall be made only after the applicant provides notice to all persons reasonably known to own an oil or gas interest in any tract or portion thereof that is proposed to be pooled.*** For purposes of this section, any unknown or nonlocatable owners shall be deemed to have consented or agreed to the pooling, provided that the operator has complied with the publication requirements of KRS 353.640(1) with respect to the unknown or nonlocatable owners. The department shall issue a permit to drill, deepen, or reopen the well and require the development and operation of the pooled acreage as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.
- (3) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of interests or tracts in order to comply with the spacing requirements of KRS 353.610, and the operator owns or controls the right to develop the oil and gas underlying one hundred percent (100%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the department shall, where it finds that the requirements of this subsection have been met, order, after notice and, ***for those required to be given notice, opportunity for comment within thirty (30) days of the date shown on the postal service proof of mailing, or, where notice is provided by publication, within thirty (30) days of the date of the publication***~~and a hearing~~, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage established by the spacing requirements of KRS 353.610. ***A pooling order shall be made only after the applicant provides notice to all persons reasonably known to own an oil or gas interest in any tract or a portion thereof proposed to be pooled. For purposes of this section, any unknown or nonlocatable owners shall be deemed to have consented or agreed to the pooling, provided that the operator has complied with the publication requirements as set forth in subsection (1) of Section 9 of this Act with respect to the unknown or nonlocatable owners.*** The department shall issue a permit to drill, deepen, or reopen the well and require the development and operation of all pooled tracts as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.
- (4) No pooling as permitted by this section shall be ordered except:
 - (a) When an application has been filed to drill, deepen, or reopen a well within the distance limitations prescribed in KRS 353.610; and
 - (b) When a lessee or owner of an oil or gas interest in the tract shall request the pooling.
- (5) No pooling as permitted by this section shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened, or reopened:
 - (a) Unless the pooling was requested prior to the commencement of the drilling, deepening, or reopening of the well by a lessee or owner of an oil and gas interest in a contiguous tract pursuant to subsection (1), (2), or (3) of this section; and
 - (b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, or reopening of the well, is accompanied by a bond or other security satisfactory to and in an amount set by the director for the payment of such owner's share of the cost of drilling, deepening, or reopening the well.
- (6) Production from any well which is ordered pooled pursuant to KRS 353.500 to 353.720 shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.

- (7) *Any order or final determination of the department under this section shall be subject to review in accordance with Section 11 of this Act and any administrative regulations promulgated thereunder.*

➔Section 9. KRS 353.640 is amended to read as follows:

- (1) The operator shall provide a list to the department of all persons reasonably known to own an oil or gas interest in any tract, or portion thereof, proposed to be pooled in an application to the department for a pooling order. A pooling order shall be made only after the ~~applicant~~~~department~~ provides notice to all persons reasonably known to own an oil or gas interest in any tract, or a portion thereof, proposed to be pooled ~~after a hearing has been held~~. In the event of the filing of an application for a pooling order under KRS 353.630(2) where unknown owners or nonlocatable owners exist, the operator shall cause to be published, ***not more than thirty (30) days prior to the submission of an***~~at least twenty (20) days prior to the hearing on the~~ application for ~~the~~ pooling~~order~~, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, proposed to be pooled is located. The notice shall:
- State that an application for a pooling order is being filed with the division~~of Oil and Gas in the Department for Natural Resources~~;
 - Describe any tract, or portion thereof, proposed to be pooled;
 - In the case of an unknown owner, identify the name of the last known owner;
 - In the case of a nonlocatable owner, identify the owner and the owner's last known address; and
 - State that any party claiming an interest in any tract, or portion thereof, proposed to be pooled should contact the operator at the published address and provide a copy of the notification to the director~~of the Division of Oil and Gas in the Department for Natural Resources~~ within twenty (20) days of the date of publication.

The applicant shall file proof of notice with the division concurrently with the application.

- (2) A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of oil or gas on the tracts or portions thereof pooled; shall designate the operator to drill and operate the well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, or reopening, and the completing, operating, plugging, and abandoning the well shall be borne, and all production from the well shall be shared by all owners of operating interests in proportion to the net mineral acres in the pooled tracts owned or under lease to each owner; and shall make provision for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.
- (3) A pooling order shall establish a procedure for the owner of an operating interest who does not decide to become a participating operator to elect to either:
- Surrender, by means of sale or lease, the interest to a participating operator on a reasonable basis and for a reasonable consideration, which if not agreed upon shall be determined by the director~~of the Division of Oil and Gas~~; or
 - Share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his or her share equal two hundred percent (200%) of the share of the costs allocable to his or her interest.
- (4) An oil or gas owner whose identity and location remain unknown ***after thirty (30) days has passed from the date of publication required by subsection (1) of this section***~~at the conclusion of a hearing concerning the entry of a pooling order for which public notice was given~~ and whose interest is pooled pursuant to KRS 353.630(3) shall be deemed to have elected to lease the interest to the oil or gas operator, exclusive of one-eighth (1/8) of the production attributable to the unleased interest, and shall not be entitled to make the election established in subsection (3) of this section.
- (5) Except as provided in this subsection, an oil or gas owner who does not make an election under the pooling order within thirty (30) days of the entry of the order shall be deemed to have leased the oil or gas interest to the oil or gas well operator in the manner established in subsection (4) of this section. If the holder of an operating interest has obtained the interest by lease or other agreement granting the right to conduct operations to anyone other than the holder of the oil and gas estate, and if the owner of the operating interest does not make an election under the pooling order, the holder of the operating interest shall be deemed to have elected to share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds

allocable to his or her share equal two hundred percent (200%) of the share of the costs allocable to his or her interest.

- (6) A person whose interest is subject to an oil or gas lease or other agreement which grants to another the right to operate or conduct operations shall not own an operating interest for the purposes of subsection (3) of this section.
- (7) ***The department shall provide a copy of the pooling order entered under KRS 353.500 to 353.720 to those required to be noticed.*** A certified copy of any pooling order ~~entered under KRS 353.500 to 353.720~~ shall be ~~entitled to be~~ recorded ***by the operator*** in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located, and the record of the order, from the time of lodging the order for record, shall be ***deemed to be delivery***~~notice~~ of the order to all ***unknown or nonlocatable owners***~~persons~~.
- (8) ***Any order or final determination of the department under this section shall be subject to review in accordance with Section 11 of this Act and any administrative regulations promulgated thereunder.***

➔Section 10. KRS 353.645 is amended to read as follows:

This section applies to any lessee or owner of an oil and gas interest in a proposed unit.

- (1) The department, ~~at~~^{upon} its own ***discretion***~~motion~~ or upon the application of any lessee or owner of an oil and gas interest in a pool or pools of a proposed unit may, after notice to all ***lessees or owners of an oil and gas interest in a pool or pools of a proposed unit, issue an order***~~interested persons, conduct a hearing to consider the need~~ for the operation and development as a unit of any pool or pools, or any portion thereof, for the production of oil and associated gas in order to increase their ultimate recovery by unitized operation and development so that each owner in the pool or pools shall have the opportunity to recover his fair and equitable share of the recoverable oil and gas in the unit.~~{~~
 - ~~(a) The hearing shall be conducted in accordance with KRS Chapter 13B. Notice of the hearings prescribed in this subsection shall be given to all persons reasonably known to the department to be a lessee or owner of an oil and gas interest in a pool or pools within a proposed unit.~~
 - ~~(b) The department may require a reasonable application fee from a lessee or owner of an oil and gas interest applying for a proposed unit.~~
- (2) The application for a unit shall include the following:
 - (a) A description of the area to be included in the unit, with a map attached, and a description of the pool or pools, or portions thereof, to be included within the unit;
 - (b) A statement of the nature of the unit operations contemplated;
 - (c) A proposed allocation of production and reserves among the separately-owned tracts and interests contributed to the unit. Reserves shall be calculated by industry standard methods supported by geological and engineering data, as determined to be appropriate by the department. The department may require an independent third party to verify the calculations as to proposed allocation of production or reserves;
 - (d) The procedure upon which wells and equipment of the separately-owned tracts and interests are to be used and compensated for in unit operations; and
 - (e) Documentation that the application is approved by at least fifty-one percent (51%) ownership in the interests proposed for inclusion in the unit.
- (3) After notice ~~and hearing~~ in the manner established in this section, the department shall issue a final order establishing a unit and requiring unit operation and development if it finds that:
 - (a) 1. The unitized operation and development of a pool or pools, or any portion thereof, for the production of oil and associated gas is reasonably necessary in order to effectively carry on operations for enhanced recovery, including but not limited to, increased density drilling, or secondary recovery operations by pressure-maintenance, repressuring, cycling, water flooding, tertiary recovery operations, or any combination of these, in order to substantially increase the ultimate recovery of oil and associated gas from the pool or pools within the unit, or to protect the correlative rights of affected mineral owners; and

2. The value of the additional recovery of oil and associated gas exceeds the estimated additional cost incident to conducting the operation; or
- (b) The unitized operation of the pool or pools within the unit will prevent waste and protect the correlative rights of the owners in the pool or pools within the unit.
- (4) Each well permitted to be drilled, deepened, reopened, or converted to an injection well and operated in a unit shall conform to either the spacing standards established in KRS 353.610, or to other unit spacing that shall be established by the department ~~as a part of the hearing provided for in this section~~.
- (5) All unit operations and production shall be deemed, for all purposes, as the conduct of operations and production upon each of the separately-owned tracts and interests in the unit.
- (6) A unitization order issued in accordance with this section shall:
 - (a) Authorize the unit operation of a pool or pools, including drilling, deepening, reopening, conversion to injection wells, and operation of all wells within the unit for the production of oil and gas from the unit;
 - (b) Designate the unit operator of the operation;
 - (c) Approve a unit operating agreement;
 - (d) Provide for the allocation of production and reserves among all separately-owned tracts and interests in the unit;
 - (e) Provide for the proportionate allocation of all reasonable costs and expenses of unit operations as these costs and expenses are set out in the approved operating agreement. Costs and expenses shall be allocated among all participating owners of operating interests who elect to participate in the proportion that the separately-owned tracts and interests share in the production of the unit; and
 - (f) Establish the spacing approved for the unit.
- (7) Any unitization order shall provide just and equitable alternatives whereby an owner of an operating interest who does not elect to participate in the risk and cost of developing the unit may elect to surrender his interest, or a portion of it, to the participating owners on a reasonable basis and for a reasonable consideration, which if not agreed upon, shall be determined by the department; or elect to participate in the development of the unit on a carried basis on terms and conditions which, if not agreed upon, shall be determined by the department to be just and reasonable. If a dispute arises as to the costs of operating and developing a unit, then the department shall determine and apportion the costs within ninety (90) days after the date of written notification to the department of the existence of the dispute; however, any person disputing an actual or proposed expenditure shall file notice of the disputed costs within one (1) year after notice of the actual or proposed expenditure was received by the person filing the dispute.
- (8) An order establishing a unit may be modified, altered, extended, vacated, or otherwise amended by the department after notice ~~and hearing~~ as prescribed in this section and a demonstration by affected persons of a significant change of circumstances supporting the amendment.
 - (a) An amendment to extend or enlarge the unit area shall be agreed upon in writing by documented owners of at least a fifty-one percent (51%) ownership in the interests in the pool or pools in the unit;
 - (b) An amendment of a unitization order enlarging a unit shall allocate to each tract or interest in the unit, as amended, a portion of the total production of oil or gas, or both, from the unit so enlarged, in proportion to the contribution of the tract or interest to the unit during the remaining course of unit operations, and shall supersede and be in lieu of the allocation of production provided for in any previously-established unit and shall have an effective date provided for in the order.
- (9) Wells drilled, deepened, or reopened for the injection of water, gas, or other fluids into any subsurface formation shall be governed by applicable state and federal statutes and regulations.
- (10) ***Any order or final determination of the department under this section shall be subject to review in accordance with Section 11 of this Act and any administrative regulations promulgated thereunder.***

➔Section 11. KRS 353.700 is amended to read as follows:

- (1) Any person aggrieved by any ***final determination made or*** order issued by the department ***under this chapter, except any orders of the commission, may file with the Energy and Environment Cabinet's Office of Administrative Hearings a petition alleging that the determination is contrary to law or fact and is injurious to the petitioner, alleging the grounds and reasons therefor, and demanding a hearing. An order or final***

determination includes but is not limited to the issuance, denial, modification, or revocation of a permit, but does not include the issuance of a letter identifying deficiencies in an application for a permit, a registration or a certification, or other nonfinal determinations. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein, and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of the notice unless the person complained against waives in writing the twenty-one (21) day period~~for by the commission under KRS 353.500 to 353.720 shall have the right to bring a civil action for review of the order by filing a complaint in the Circuit Court of the county in which the premises or any portion thereof affected by the order is located, or in the Franklin Circuit Court].~~

- (2) *The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the final determination or order complained of, or could reasonably have had notice*~~[The suit shall be brought within thirty (30) days after the order is issued, and in event no suit is filed within the thirty (30) day period, the order shall be final].~~
- (3) ~~[In the suit]~~*The burden of proof shall be upon the party complaining of the order or final determination*~~], and the order shall be deemed prima facie valid]. Any party~~*to the suit* ~~may offer into~~*in* ~~evidence all or any part of the record of the hearing which resulted in the order, and any other relevant evidence.~~
- (4) *All hearings under this chapter, except those before the commission, shall be held before a hearing officer, duly qualified to practice law in the Commonwealth of Kentucky, who may be a full-time employee of the cabinet, serve by contract, or be paid on a per diem basis at the discretion of the cabinet. After the conclusion of the hearing, the hearing officer shall, within sixty (60) days, make to the secretary a report and recommended order, which shall contain findings of fact and conclusions of law. If the secretary finds upon written request of the hearing officer that additional time is needed, the secretary may grant an extension. The hearing officer shall serve a copy of the report and recommended order upon all parties of record to the proceeding and their counsels, if any, and they shall be granted the right to file exceptions thereto within fourteen (14) days of receipt. Any party may submit a written response to exceptions within twenty-one (21) days of receipt of the report and recommended order. Exceptions and responses not timely filed shall be noted but shall not be considered by the secretary in making a final order. Within ninety (90) days of the report or recommendation made by the hearing officer, the secretary shall consider the report, exceptions, responses to exceptions, and recommended order and decide the case. The decision shall be served by mail upon all parties and their attorney of record and shall be a final order of the cabinet.*
- (5) *The cabinet shall promulgate administrative regulations, pursuant to the provisions set forth in this chapter and to the extent possible, consistent with those promulgated pursuant to KRS Chapter 224, establishing formal and informal hearing procedures by which any hearing shall, upon the written request of the operator, permittee, or other person, be held in the Energy and Environment Cabinet's Office of Administrative Hearings in Frankfort, before an impartial hearing officer who is independent of any prosecutorial functions of the cabinet. The administrative regulations shall provide for the conduct of hearings and investigations of any matter relating to this chapter. The procedures developed pursuant to this subsection shall provide that the hearings be held in the most expeditious manner possible within the time constraints established under this chapter. No person who presided at a prior hearing shall either preside at a subsequent hearing or participate in any further decision or subsequent administrative appeal in the same matter.*
- (6) *Any party aggrieved by a final order of the secretary resulting from a hearing conducted pursuant to this section may appeal to the Franklin Circuit Court within thirty (30) days from the issuance of the final order. The party or parties affected by the final order shall file in the Circuit Court a petition, which states fully the grounds upon which a review is sought and shall assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the secretary. Summons shall issue upon the petition directing the cabinet to send its entire record, properly bound, to the clerk of the Circuit Court after certifying that the record is its entire original record or a true copy. The record, when filed, shall become official and be considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal, may, upon notice to the parties, proper showing, and in the discretion of the court, be permitted to intervene. The court shall review the entire record and the findings and final order of the cabinet. No objection to the final order shall be considered by the court, unless the issue was raised before the cabinet or there were reasonable grounds for failure to do so. The findings of the cabinet as to the facts shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and final order of the cabinet*~~[On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the commission, unless the court upon motion and for good cause shown determines that the interests of justice~~

~~will be better served by the introduction of new evidence. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to determining: whether or not the commission acted without or in excess of its powers; the order was procured by fraud; the order is not in conformity to the provisions of KRS Chapter 353; the order is clearly erroneous on the basis of reliable, probative and material evidence contained in the whole record; or the order is arbitrary, or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.~~

~~(5) The practice, pleading and proceedings in the suit shall be in accordance with the Rules of Civil Procedure].~~

~~(7)(6)]~~ ~~[In the suit]~~ The court may stay the order until the court shall enter its decree. The court shall have jurisdiction to enter a decree affirming or setting aside the order or remanding the cause with directions to modify the order so that it shall conform to the provisions of *this chapter* ~~[KRS 353.500 to 353.720]~~. Appeals may be taken by any party to the suit in the same manner and to the same extent as in other civil actions.

➔Section 12. KRS 353.806 is amended to read as follows:

- (1) The storage operator shall negotiate with the pore space owners and acquire rights needed to access the pore space.
- (2) If, after good-faith negotiation, the storage operator cannot locate or cannot reach an agreement with all necessary pore space owners, but has secured written consent or agreement from the owners of at least fifty-one percent (51%) of the interest in the pore space for the storage facility, the division shall order the pooling of all pore space included within the proposed storage facility if the division~~[-~~

~~(a) Holds a hearing after notice pursuant to KRS Chapter 13B; and~~

~~(b) finds that the requirements of this section and KRS 353.808 have been met.~~

For the purposes of this section, any unknown or nonlocatable owners shall be deemed to have consented or agreed to the pooling, provided that the storage operator has complied with the publication requirements of KRS 353.808.

- (3) A carbon injection well shall be exempt from the provisions of KRS 353.651 and 353.652 and 805 KAR 1:100, regardless of the depth of the well.
- (4) ***Any order or final determination of the department under this section shall be subject to review in accordance with Section 11 of this Act and any administrative regulations promulgated thereunder.***

➔Section 13. KRS 353.808 is amended to read as follows:

- (1) The storage operator shall provide a list to the division of all persons reasonably known to own an interest in pore space proposed to be pooled in an application to the division for a pooling order. A pooling order shall be made only after the division provides notice to all pore space owners proposed to be pooled~~[- and after a hearing has been held]~~.
- (2) The division shall set and collect a fee adequate to pay expenses associated with the conduct of administrative hearings for pooling of pore space.
- (3) If the proposed pooling order concerns pore space with unknown or nonlocatable owners, the storage operator shall publish one (1) notice in the newspaper of the largest circulation in each county in which the pore space is located. The notice shall appear ***no more than thirty (30) days prior to the initial***~~[at least twenty (20) days prior to the hearing on the]~~ application for the pooling order. The notice shall:
 - (a) State that an application for a pooling order has been filed with the division~~[- of Oil and Gas in the Department for Natural Resources]~~;
 - (b) Describe the pore space proposed to be pooled;
 - (c) In the case of an unknown pore space owner, indicate the name of the last known owner;
 - (d) In the case of a nonlocatable pore space owner, identify the owner and the owner's last known address; ***and***
 - (e) State that any person claiming an interest in the pore space proposed to be pooled should notify the director of the division and the storage operator at the published address within twenty (20) days of the publication date~~[- and~~

~~(f) Give the date, time, and location of the hearing.~~

The applicant shall file proof of notice with the division concurrently with the application.

- (4) A pooling order shall authorize the long-term storage of carbon dioxide beneath the tract or portion. The order shall also authorize, where necessary, the location of carbon injection wells, outbuildings, roads, monitoring equipment, and access to them. The pooling order shall identify the compensation to be paid to unknown, nonlocatable, and nonconsenting pore space owners and the basis for valuation of the pooled interest.
- (5) A certified copy of any pooling order shall ~~be entitled to~~ be recorded ***by the operator*** in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located. ***The department shall provide a copy of the pooling order to those required to be noticed, in the manner provided in subsection (45) of Section 4 of this Act. For purposes of this section, any unknown or nonlocatable owners shall be deemed to have received notice, provided that the operator has complied with the publication requirements of subsection (3) of this section with respect to the unknown or nonlocatable owners.***~~[Recordation of the order shall be notice of the order to all persons].~~
- (6) ***Any order or final determination of the department under this section shall be subject to review in accordance with Section 11 of this Act and any administrative regulations promulgated thereunder.***

Signed by Governor April 2, 2018.

CHAPTER 95

(SB 126)

AN ACT relating to the Commonwealth Council on Developmental Disabilities.

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

➔Section 1. KRS 194A.135 is repealed, reenacted as a new section of KRS Chapter 41, and amended to read as follows:

- (1) The Commonwealth Council on Developmental Disabilities is created within the ***Department of the Treasury***~~[cabinet]~~.
- (2) The Commonwealth Council on Developmental Disabilities is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.
- (3) The members of the Commonwealth Council on Developmental Disabilities shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) members.
 - (a) Ten (10) members shall be representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973 as amended; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA); the state agency that administers funds provided under the Older Americans Act of 1965 as amended; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; and the protection and advocacy system established under Public Law 101-496. These members shall represent the following:
 1. Office of Vocational Rehabilitation;
 2. Office for the Blind;
 3. Division of Exceptional Children, within the Department of Education;
 4. Department for Aging and Independent Living;
 5. Department for Medicaid Services;
 6. Department of Public Advocacy, Protection and Advocacy Division;
 7. University-affiliated programs;

8. Local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities;
 9. Department for Behavioral Health, Developmental and Intellectual Disabilities; and
 10. Department for Public Health, Division of Maternal and Child Health.
- (b) At least sixty percent (60%) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 as amended and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) members shall be persons with developmental disabilities, and five (5) members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and at least one (1) of these members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution.
 - (c) Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause.
 - (d) The council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The **Department of the Treasury**~~[cabinet]~~ shall provide personnel adequate to **ensure**~~[insure]~~ that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be responsible for the recruitment and hiring of a new executive director.
- (4) The Commonwealth Council on Developmental Disabilities shall:
- (a) Develop~~[, in consultation with the cabinet,]~~ and implement the state plan as required by Part B of the Developmental Disabilities Act of 1984, as amended, with a goal of development of a coordinated consumer and family centered focus and direction, including the specification of priority services required by that plan;
 - (b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives;
 - (c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities;
 - (d) Submit to the **Department of the Treasury**~~[secretary of the cabinet, the commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities,]~~ and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the **Department of the Treasury**~~[cabinet]~~ finds necessary to verify the reports;
 - (e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;
 - (f) Examine, not less than once every five (5) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and
 - (g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.

Signed by Governor April 2, 2018.

CHAPTER 96**(SB 61)**

AN ACT authorizing a Murray State University capital project, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. There is hereby authorized and appropriated \$12,500,000 in Other Funds and \$2,000,000 in Restricted Funds in fiscal year 2017-2018 for the restoration of J.H. Richmond Residential Hall at Murray State University.

➔Section 2. Whereas it is imperative that the commencement of this capital project begins in fiscal year 2017-2018, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 2, 2018.

CHAPTER 97**(HB 398)**

AN ACT relating to physical therapist licensure and declaring an emergency.

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

➔SECTION 1. KRS 327.310 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The Board of Physical Therapy established in KRS 327.030 shall require a national and state criminal background investigation for every applicant seeking a license, certificate, or temporary permit issued by the board permitting the applicant to engage in a profession authorized by the board. The criminal background investigation shall be by means of a fingerprint check by the Department of Kentucky State Police and Federal Bureau of Investigation, pursuant to the following requirements:

- (1) The applicant shall provide his or her fingerprints to the Department of Kentucky State Police for submission to the Federal Bureau of Investigation after a state criminal background check is conducted;*
- (2) The results of the national and state criminal background check shall be sent to the board for the screening of applicants;*
- (3) The board shall be prohibited from releasing any criminal history record information to any private entity or other licensing board, or authorizing receipt by such entity or board; and*
- (4) Any fee charged by the Department of Kentucky State Police or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the background check. The board may charge this fee to the applicant for licensure or certification.*

➔Section 2. Whereas, the Federal Bureau of Investigation has deemed the criminal background check procedures of KRS Chapter 327 insufficient to meet its standards, and failure to change these background check procedures before May 2018 could risk Kentucky's membership in the Physical Therapy Licensure Compact, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 2, 2018.

CHAPTER 98

(HB 370)

AN ACT relating to property redevelopment.

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

➔Section 1. KRS 224.1-512 is amended to read as follows:

As used in KRS 224.1-510 to 224.1-532:

- (1) "Hazardous substance" shall have the meaning in KRS 224.1-400(1)(a) and also include any pollutant or contaminant, as those terms are defined in KRS 224.1-400(1)(f), any hazardous substance, pollutant, or contaminant designated by the cabinet in accordance with KRS 224.1-400(2), and any hazardous substance included in KRS 224.1-400(3);
- (2) "Petroleum" shall have the meaning set forth in KRS 224.60-115(15);
- (3) "Petroleum storage tank" shall have the meaning set forth in KRS 224.60-115(16);
- (4) "Property" means a tract of real property for which an application has been submitted under KRS 224.1-514;
- (5) "Remediation" means the characterization of a release of a hazardous substance or petroleum, in accordance with KRS 224.1-400~~[(18)]~~ for hazardous substances or KRS 224.1-405 for petroleum, **and any administrative regulations promulgated under those statutes**, and actions necessary to correct the effects of the release on the environment, as required by KRS 224.1-400 for hazardous substances, pollutants, or contaminants or KRS 224.1-405 for petroleum, **and any administrative regulations promulgated under those statutes**; and
- (6) "Site" shall have the meaning in KRS 224.1-400(1)(c), **and shall also refer to any area undergoing remediation as defined in subsection (5) of this section.**

➔Section 2. KRS 224.1-514 is amended to read as follows:

- (1) A Voluntary Environmental Remediation Program is established and shall be administered by the cabinet in accordance with KRS 224.1-510 to 224.1-532.
- (2) Any person may apply to enter a property in the program, unless:
 - (a) The property is part of or contains a site which is on the National Priorities List established by the United States Environmental Protection Agency;
 - (b) The property is part of or contains a hazardous waste treatment, storage, or disposal facility for which a permit has been issued, or the site is otherwise the subject of hazardous waste closure or corrective action pursuant to KRS 224.46-520 or KRS 224.46-530;
 - (c) The property or site is the subject of state or federal environmental enforcement action relating to the release, for which the application is submitted; or
 - (d) The property or site presents an environmental emergency, as defined in KRS 224.1-400.
- (3) To apply to enter the voluntary environmental remediation program, an applicant shall:
 - (a) **Complete**~~Respond accurately and completely to all questions on~~ an application provided by the cabinet;
 - (b) Identify any hazardous substance and any petroleum released or believed to be released to the environment at the site and provide a **site** characterization plan for the releases or threatened releases adequate to comply with KRS 224.1-400, 224.1-405, 224.1-510 to 224.1-532, and any administrative regulations promulgated pursuant thereto;
 - (c) Submit a **five thousand dollar (\$5,000)** nonrefundable application fee~~. The fee shall be one thousand dollars (\$1,000) for properties up to three (3) acres in size. The fee for properties greater than three (3) acres but less than ten (10) acres shall be two thousand five hundred dollars (\$2,500). The fee for properties of ten (10) acres or larger shall be three thousand five hundred dollars (\$3,500). However, a political subdivision of the state, and its agencies and instrumentalities, shall be exempt from paying the fee for properties that are publicly owned~~; and
 - (d) Publish the notice of application in the newspaper of largest circulation in the county in which the site is located. **The notice shall include a reference to the local public library where pertinent documents related to the application may be found and reviewed by the public.**

- (4) Fees~~[and costs]~~ collected under KRS 224.1-510 to 224.1-532 shall be deposited in the hazardous waste management fund set out in KRS 224.46-580(13). The cabinet shall use the fees~~[and costs]~~ to administer the voluntary environmental remediation program.
- (5) ~~[The cabinet shall, if requested, meet with the applicant either before or after submittal of an application to discuss the sufficiency of the application.]~~
- ~~(6) [The cabinet shall notify the Department for Public Health when the cabinet receives an application with information pertaining to an actual or threatened release of a hazardous substance over which the Department for Public Health has regulatory authority.]~~
- (6)(7) ~~[When an application for entry into the voluntary environmental remediation program is filed, the applicant shall notify the chief executive of local governmental units in which the property or site that is the subject of the application is located and shall provide the chief executives with a copy of the application.]~~ Copies of the following documents shall be transmitted by the applicant, as they become available, to the local public library:
 - (a) ~~[Agreed order;~~
 - ~~(b)]~~ Characterization plan;
 - (b)(c) Characterization report;
 - (c)(d) Corrective action plan;
 - (d)(e) Corrective action completion report;
 - (e)(f) Any notices of deficiency and any responses thereto; and
 - (f) **Corrective action liability agreement**~~(g) [Covenant not to sue].~~

➔Section 3. KRS 224.1-516 is amended to read as follows:

- (1) The cabinet shall notify an applicant for the voluntary environmental remediation program within **thirty (30)**~~[forty five (45)]~~ working days of receipt of **a new or revised**~~[the]~~ application as to whether the application is **complete**. **Within forty-five (45) working days of determining that an application is complete, the cabinet shall notify the applicant as to whether the application is accepted, deemed technically deficient, or denied.**
- (2) The cabinet shall deny an application if:
 - (a) The cabinet determines the property is ineligible to participate in the program under KRS 224.1-510 to 224.1-532; **or**
 - (b) **The applicant fails to satisfy the requirements of this Act**~~[cabinet withdraws from agreed order negotiations pursuant to KRS 224.1-518; or~~
 - ~~(c) [The application is not complete].~~
- (3) If the cabinet denies **a new or revised**~~[an]~~ application, the cabinet shall notify the applicant in writing, stating the reasons for the denial.~~[If the reason for denial is incompleteness, the cabinet shall inform the applicant of the information needed to make the application complete.]~~
- (4) **If the cabinet determines that the application is technically deficient,** the applicant may submit **a**~~[, within ninety (90) working days of receipt of the initial denial notice, a completed or]~~ revised application **to address deficiencies identified by the cabinet** without incurring an additional fee.
- ~~(5) [Within forty five (45) working days of resubmittal, the cabinet shall review any revised or completed application and notify the applicant in writing of its determination to accept or deny the application. If the cabinet denies the application again for incompleteness, the cabinet shall again inform the applicant of the information needed to make the application complete. The cabinet may assess a new application fee for the resubmittal.]~~
- ~~(6) [If the applicant's second revised application fails to provide the information necessary to address all the concerns of the cabinet, the applicant and the cabinet may meet to clarify the cabinet's expectations and concerns.]~~

➔Section 4. KRS 224.1-520 is amended to read as follows:

- (1) **Once an application has been accepted by the cabinet**~~[Upon execution of an agreed order]~~, the applicant shall submit to the cabinet within the~~[agreed]~~ timeframe **proposed in the site characterization plan**, a site

characterization report and a corrective action plan *that meet the requirements of KRS 224.1-400, 224.1-405, and 224.1-510 to 224.1-532 and any administrative regulations promulgated under those statutes. The cabinet may grant reasonable extensions to the submittal timeframes specified in the site characterization plan if requested by the applicant.*

- (2) The corrective action plan for properties involving hazardous substances over which the Department for Public Health has regulatory authority shall, at the time of submittal to the cabinet, also be submitted to the commissioner of the Department for Public Health.
- ~~{(3) A corrective action plan shall comply with KRS 224.1 400, 224.1 405, 224.1 510 to 224.1 532, and any administrative regulations promulgated under these statutes, and shall include:~~
 - ~~(a) Detailed documentation of the characterization conducted by the applicant to determine the nature and extent of the release or threatened release as required under KRS 224.1 400 and 224.1 405 and a description of any remediation performed on the site;~~
 - ~~(b) A description of any corrective action and additional characterization proposed to complete the remediation in accordance with KRS 224.1 400 and 224.1 405, together with a proposed schedule for implementation;~~
 - ~~(c) Descriptions of sampling and analysis methods, techniques, and results, and quality assurance methods and controls used or proposed;~~
 - ~~(d) A description of measures to protect human health and safety during the remediation;~~
 - ~~(e) A plan of action to inform the public about the remediation and redevelopment of the property and to provide for meaningful public comment;~~
 - ~~(f) Identification of any limitations on land use or activity proposed for the site;~~
 - ~~(g) Identification of any petroleum storage tanks on the site and an outline of how the applicant intends to comply with Subchapter 60 of KRS Chapter 224 and 401 KAR Chapter 42; and~~
 - ~~(h) A requirement to update the corrective action plan to characterize and remediate releases discovered or caused during characterization or corrective action.}~~

➔Section 5. KRS 224.1-522 is amended to read as follows:

- (1) Within one hundred twenty (120) working days of receipt of a corrective action plan *and the completion of the public comment period required by KRS 224.1-524*, the cabinet shall:
 - (a) Review and evaluate the characterization and the corrective action plan for compliance with~~{the agreed order,}~~ KRS 224.1-400, 224.1-405, *and* 224.1-510 to 224.1-532~~{,}~~ and any administrative regulations promulgated under *those*~~{these}~~ statutes, and if necessary, inspect the property and any relevant conditions in the area surrounding the property; and
 - (b) Approve or deny the corrective action plan.
- (2) ~~{The cabinet may request an applicant to submit additional or corrected information during the applicable evaluation period. If the cabinet makes a request, the applicant may:~~
 - ~~(a) Comply with the request by notifying the cabinet in writing and submitting the additional or corrected information within thirty (30) days after receiving the cabinet's request. From the date of the request by the cabinet until the additional or corrected information is submitted to the cabinet, the applicable evaluation period shall be suspended; or~~
 - ~~(b) Request a final determination in accordance with KRS 224.1 400(22) within thirty (30) days after receiving the cabinet's request.~~
- ~~(3) If the cabinet approves a corrective action plan, the cabinet shall, in writing, notify the applicant and commenters.~~
- ~~(3){(4)}~~ The cabinet shall deny a corrective action plan for failure to comply with KRS 224.1-400, 224.1-405, *or* 224.1-510 to 224.1-532~~{,}~~ or any administrative regulations promulgated under *those*~~{these}~~ statutes.~~{The cabinet may deny a corrective action plan for failure to respond to its request for information.}~~ If the cabinet denies a corrective action plan, it shall notify, in writing, the applicant and commenters, specifying the reasons for the denial. The cabinet shall also inform the applicant of the right to appeal the decision in accordance with

KRS 224.10-420(2). Within thirty (30) days of receipt of the notice of denial, the applicant shall inform the cabinet if a revised corrective action plan or corrective action completion report will be submitted.

➔Section 6. KRS 224.1-524 is amended to read as follows:

- (1) ***Within ten (10) days from the date the***~~[On or before the date that an]~~ applicant submits a corrective action plan to the cabinet, the applicant shall:
 - (a) ***Submit for publication in a newspaper of general circulation in the county or counties where the property is located, a notice requesting public comment on the corrective action plan, and submit to the cabinet a copy of the notice as published, within ten (10) days of its publication. The public notice shall also contain a reference to the local public library where pertinent documents related to the corrective action plan may be found;***
 - (b) Notify local government units affected by the remediation of the provisions of the corrective action plan; ***and***
 - (c) ***Until the corrective action plan has been approved by the cabinet,***
 - ~~[(b) Provide a copy of the corrective action plan to at least one (1) public library in any county affected by the remediation;~~
 - ~~(c) Submit for publication in a newspaper of general circulation in the county or counties where the property is located, a notice requesting public comment on the corrective action plan, and submit to the cabinet a copy of the notice as published, within ten (10) days of its publication; and~~
 - ~~(d) Post a sign on the property stating that ***a corrective action plan for remediation of*** the site is undergoing ***review by the cabinet and, if approved, remediation will be conducted in accordance with the approved plan. The sign shall also provide***~~[and providing]~~ information on where and when the corrective action plan is available for public review and comment.~~
- (2) A comment period of at least thirty (30) days shall follow publication of the notice. During the comment period, any person may submit written comments to the cabinet concerning the corrective action plan and may request a public hearing. The cabinet may hold a public hearing if the request is made.
- (3) The cabinet may hold a public hearing in any geographical area affected by the remediation on the question of whether to approve or deny the corrective action plan.
- (4) The cabinet shall consider all written comments and public testimony prior to taking any action.

➔Section 7. KRS 224.1-526 is amended to read as follows:

- (1) Upon ~~completion~~~~[full performance]~~ of ***those tasks outlined in*** an approved corrective action plan, the applicant shall submit for the cabinet's review, ***within the timeframe proposed in the corrective action plan***~~[by the deadline agreed upon by the parties]~~, a corrective action completion report, and shall certify therein that the applicant has successfully completed remediation in compliance with the approved corrective action plan.
- (2) The cabinet shall review the corrective action completion report in the same manner as it reviewed the corrective action plan.
- (3) The cabinet may conduct its own investigation including but not limited to its own characterization to verify that remediation has been completed in compliance with the approved corrective action plan.~~[The reasonable actual and necessary costs of this verification shall be considered oversight costs reimbursable under KRS 224.1-518(2)(c). Any confirmatory sampling by the cabinet shall be completed within the deadline agreed to by the parties.]~~
- (4) If the cabinet determines that no further remediation is required under the approved corrective action plan ***or any administrative regulations promulgated under KRS 224.1-400, 224.1-405, and 224.1-510 to 224.1-532,***~~[and upon the applicant's payment of the cabinet's costs for review and oversight of the remediation,]~~ the cabinet shall issue the applicant a ***corrective action liability agreement***~~[covenant not to sue]~~.
- (5) With respect to the releases identified in the corrective action plan, the ***corrective action liability agreement***~~[covenant not to sue]~~ shall preclude any suit or claim by the Commonwealth for the prosecution of civil or administrative enforcement action against the applicant for failure to perform remediation under KRS 224.1-400, 224.1-405, any administrative regulations promulgated under these statutes, or the Federal Comprehensive Environmental Response Compensation and Liability Act as amended, 42 U.S.C. sec. 9601 et

seq., for injunctive relief, lien assertion, reimbursement of costs, or civil penalties imposed under KRS 224.99-010 for failure to perform remediation under KRS 224.1-400 or 224.1-405 and any administrative regulations promulgated under these statutes.

- (6) The **corrective action liability agreement**~~{covenant not to sue}~~ shall be in recordable form, and shall be recorded by the applicant, along with all deed restrictions and institutional controls approved by the cabinet, among the real estate records in the office of the county clerk where the property is located, within thirty (30) days of issuance by the cabinet. The **corrective action liability agreement and all deed restrictions, restrictive covenants, and institutional controls approved by the cabinet as part of the approved corrective action plan shall run with the land and inure to the benefit of, and be enforceable by the cabinet against**~~{cabinet shall have the authority and duty to enforce any restrictive covenants or institutional controls with respect to}~~ the applicant and all subsequent landowners, *assignees, transferees, or successors*. The **corrective action liability agreement**~~{covenant}~~ shall not be effective until it is recorded and a certified copy of the record instrument is delivered to the cabinet.~~{The covenant shall not be effective with respect to any assignees, transferees, or successors until the requirements of the agreed order and the corrective action plan are incorporated as restrictions in the deed or other transfer instrument that is recorded and a certified copy of the record instrument is delivered to the cabinet.}~~
- (7) The **corrective action liability agreement**~~{covenant not to sue}~~ shall not apply to:
 - (a) Releases other than those expressly identified in the corrective action plan;
 - (b) Claims based on the failure of the applicant, or the failure of any successive landowner as applicable, to comply with a requirement of KRS 224.1-510 to 224.1-532,~~{the agreed order,}~~ the approved corrective action plan, or the approved corrective action completion report, including any required land use restrictions and engineering or institutional controls;
 - (c) Liability resulting from the applicant's exacerbation of the releases identified in the corrective action plan;
 - (d) Criminal liability;
 - (e) Petroleum storage tanks;
 - (f) Claims or liability based on or resulting from misrepresentations or intentional omissions by the applicant;
 - (g) Liability for any conditions at the site that were not known to the cabinet when the cabinet approved the corrective action plan or the corrective action completion report, provided those conditions prevent the remediation from being protective of human health, safety, and the environment;
 - (h) Claims based on changes in the development of scientific knowledge, as reflected in published peer-reviewed health or environmental standards, that indicate that the remediation is no longer protective of human health, safety, and the environment;
 - (i) An environmental emergency as defined in KRS 224.1-400;
 - (j) Any cabinet action for damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release pursuant to the Federal Comprehensive Environmental Response Compensation and Liability Act as amended, 42 U.S.C. sec. 9601 et seq.; and
 - (k) Any administrative or civil action by the cabinet not expressly identified in subsection (5) of this section.
- (8) Subject to subsection (7) of this section, the issuance of a **corrective action liability agreement**~~{covenant not to sue}~~ for a brownfield site, as defined in 42 U.S.C. sec. 9601(39), shall preclude any suit or claim under state law to compel the performance of remediation in excess of that required in the approved corrective action plan.
- (9) **The issuance of a corrective action liability agreement**~~{Subsection (8) of this section}~~ shall not be construed to limit:
 - (a) Appeals of final cabinet orders and determinations as provided for in this chapter;
 - (b) Actions against the cabinet to compel compliance with the terms of the corrective action plan; or
 - (c) The availability of remedies to persons, other than the cabinet, for injury to property or person.

➔Section 8. KRS 224.1-528 is amended to read as follows:

The following actions of the cabinet shall be considered final determinations under KRS 224.1-510 to 224.1-532 that may be appealed in accordance with KRS 224.10-420(2):

- (1) Denial of an application to participate in the voluntary environmental remediation program;
- (2) ~~{Cabinet withdrawal from negotiations with an applicant for an agreed order;~~
- ~~(3) — }Denial or approval of a corrective action plan;~~
- (3) ***Denial or approval of a corrective action completion report;*** and
- (4) Issuance or denial of a ***corrective action liability agreement***~~{covenant not to sue}.~~

➔Section 9. The following KRS section is repealed:

224.1-518 Voluntary remediation agreed order.

Signed by Governor April 2, 2018.

CHAPTER 99

(HB 281)

AN ACT relating to proprietary education.

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

➔SECTION 1. KRS 165A.310 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter:

- (1) ***"Agent" means any person employed by a proprietary school to act as agent, solicitor, broker, or independent contractor to procure students for the school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school;***
- (2) ***"CDL" means a commercial driver's license as defined in KRS 281A.010;***
- (3) ***"CDL driver training" means a course of study that complies with the provisions of KRS 332.095 governing the instruction of persons in the operation of commercial motor vehicles;***
- (4) ***"CDL driver training school" means any person, firm, partnership, association, educational institution, establishment, agency, organization, or corporation that offers CDL driver training to persons desiring to obtain a Kentucky CDL in order to operate a commercial motor vehicle and for which a fee or tuition is charged;***
- (5) ***"Commercial motor vehicle" has the same meaning as in KRS 281A.010;***
- (6) ***"Commission" means the Kentucky Commission on Proprietary Education;***
- (7) ***"Formal complaint" means a written statement filed on a form specified by the commission in which the complainant alleges that a school has violated a Kentucky statute or administrative regulation and has negatively impacted the complainant, and resolution is requested by the commission;***
- (8) ***"License" means authorization issued by the commission to operate or to contract to operate a proprietary school in Kentucky as described in this chapter and does not reflect accreditation, supervision, endorsement, or recommendation by the commission;***
- (9) ***"Person" means an individual, corporation, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;***
- (10) ***"Proprietary school" or "school" means a privately owned for-profit educational institution, establishment, agency, organization, or person offering or administering a plan, course, or program of instruction in business, trade, technical, industrial, or related areas for which a fee or tuition is charged whether conducted in person, by mail, or by any other method, and does not include:***

- (a) *A school or educational institution supported entirely or partly by taxation from either a local or state source;*
 - (b) *A parochial, denominational, or eleemosynary school or institution;*
 - (c) *A training program which offers instruction for payment by participants primarily in pursuit of a hobby, recreation, or entertainment, and does not result in the granting of postsecondary credits nor lead to an industry-recognized credential, academic certificate, or degree;*
 - (d) *A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees for the benefit of the employer and without charge to the employee; or*
 - (e) *A school or educational institution licensed or approved by or a course or courses of study or instruction sponsored by the Kentucky Board of Barbering established by KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists established by KRS 317A.030, the Kentucky Board of Nursing established by KRS 314.121, the Kentucky Board of Embalmers and Funeral Directors established by KRS 316.170, or the Kentucky Council on Postsecondary Education established by KRS 164.011;*
- (11) *"Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement;*
 - (12) *"School year" is beginning the first day of July and ending the thirtieth day of June next following, except when approval shall be suspended or canceled pursuant to the provisions of Section 4 of this Act; and*
 - (13) *"Statement of quality assurance" means a statement required by the commission from a non-degree granting institution, in a form and manner determined by the commission, that attests to the institution meeting the minimum standards required for receiving and maintaining a license.*

➔Section 2. KRS 165A.330 is amended to read as follows:

- (1) No person shall conduct, operate, maintain, or establish a proprietary school as herein defined or use any words which designate or tend to designate to the public that the operator of the school is qualified to conduct, operate, and maintain the school, unless he holds a valid current license from the commission.
- (2) Completed applications for a license shall be filed with the commission thirty (30) working days prior to being considered by the commission.
- (3) Renewal applications shall be filed **annually** with the commission **forty-five (45) days prior to the** ~~by May 15, prior to the June 30~~ expiration date.
- (4) The school owner shall notify the commission if any personnel involved in the applicant school has ever been associated as owner, partner, director, or other administrator with a school that has had its license revoked or that has closed and caused students a loss of money. The commission may consider this information in granting, renewing, or revoking a license.
- (5) No person shall in any way solicit any person or group of persons in this state to enroll at or attend any such school unless the person holds a valid license as agent of the school for which he **or she** is soliciting.

➔Section 3. KRS 165A.340 is amended to read as follows:

- (1) The Kentucky Commission on Proprietary Education is hereby created as an independent agency of the Commonwealth and shall be attached to the Education and Workforce Development Cabinet for administrative purposes. The commission shall be composed of the following members:
 - (a) Two (2) members who are representative of privately owned for-profit postsecondary educational institutions licensed by the commission and appointed by the Governor from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;
 - (b) Two (2) members who are representative of privately owned for-profit postsecondary technical schools licensed by the commission and appointed by the Governor from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;
 - (c) Four (4) members who are representative of the public at large with a background in education, business, or industry in Kentucky and appointed by the Governor;

- (d) The secretary of the Education and Workforce Development Cabinet, or the secretary's designee;
 - (e) The president of the Council on Postsecondary Education, or the president's designee; and
 - (f) The commissioner of education, or the commissioner's designee.
- (2) Initial terms of appointed members shall be staggered by the Governor. Thereafter, terms shall be four (4) years or until successors are duly appointed and qualified. A vacancy on the commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment. An appointed member shall not serve more than two (2) consecutive full terms, except that a member may be reappointed after a break in service of one (1) full term.
- (3) The commission shall employ and fix the compensation of an executive director, who shall be its secretary and principal executive officer. The executive director shall have a background in the regulation of commerce, business, or education, and shall be responsible for:
- (a) Organizing and staffing meetings of the commission;
 - (b) Establishing policies to ensure retention of original licensing documentation;
 - (c) Ensuring that minutes and other financial, procedural, complaint, and operational records are securely maintained and archived;
 - (d) Internal and external correspondence and communication;
 - (e) Submitting reports and strategic agenda items for review and approval;
 - (f) Assisting the commission in the promulgation of administrative regulations;
 - (g) Carrying out policy and program directives of the commission;
 - (h) Preparing budget submissions;
 - (i) Ensuring that formal complaints are provided to the complaint committee and arranging for independent investigations as needed;
 - (j) Ensuring that an independent audit of the commission's finances is conducted **biennially**~~annually~~;
 - (k) Ensuring that formal written agreements are executed for the procurement of administrative and legal services;
 - (l) Formalizing office policies and procedures relating to licensing and financial operations;
 - (m) Developing and implementing a process for monitoring expenditures and reconciling on a monthly basis commission and student protection fund receipts reported in the Enhanced Management Administrative Reporting System (EMARS); and
 - (n) Other activities necessary to ensure that the commission meets its designated duties and responsibilities.
- (4) The commission shall have full authority to employ and fix the compensation for any personnel, including counsel, as it may deem necessary to effectively administer and enforce the provisions of this chapter. The commission shall obtain office space, furniture, stationery, and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter.
- (5) The commission shall annually elect a chairperson. The chairperson shall not be a school representative appointed pursuant to subsection (1)(a) or (b) of this section.
- (6) (a) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish:
- 1. Commission operating and accountability procedures;
 - 2. Requirements for each licensed institution to publicly disclose according to standardized protocols, both in print and Web-based materials, information about:
 - a. Any information that the schools are required to report by the federal Higher Education Opportunity Act, Pub. L. No. 110-315, using the Integrated Postsecondary Education Data System (IPEDS) of the National Center for Educational Statistics as a condition of participating in Title IV federal financial aid programs;

- b. The job placement rate of program graduates in the field of study and the types of jobs for which graduates are eligible;
 - c. Articulation agreements with other postsecondary educational institutions and the rights and responsibilities of students regarding transfer of credits;
 - d. The complaint procedures available to students; and
 - e. The existence of the student protection fund created in KRS 165A.450, and procedures for students to file a claim, including but not limited to the documentation required for submission of a claim;
3. Quality standards and compliance monitoring schedules of traditional programs, correspondence courses, and Web-based, distance learning courses offered over the Internet;
 4. ***Advertising requirements for schools issued a license, including no distribution of materials containing untrue, deceptive, or misleading statements and no representation that the commission is an accrediting agency for the school or its programs;***
 5. A schedule for reviewing advertisements and recruitment materials and practices of member institutions to ensure compliance with this chapter;
 - ~~6.{5-}~~ An equitable structure of licensure and renewal fees, to be paid by licensed schools, necessary to carry out the provisions and purposes of this chapter and to support adequate staffing of commission responsibilities. The fee structure shall be based on the gross revenue of licensed schools, number of students enrolled, and whether the school is located within the state or outside the state; and
 - ~~7.{6-}~~ The method for calculating placement rates that are to be disclosed pursuant to this subsection.
- (b) The commission shall have the authority to promulgate other administrative regulations, in cooperation with the Kentucky Department of Education and the Council on Postsecondary Education, as it deems necessary for the proper administration of this chapter.
- (7) The commission shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places within this state as the commission may designate. The majority of the members shall constitute a quorum, and all meetings shall be conducted in accordance with the Open Meetings Act, KRS 61.805 to 61.850.
 - (8) The commission may sue and be sued in its own name.
 - (9) Commission members shall receive a per diem of one hundred dollars (\$100) for attendance at each commission meeting and may be reimbursed for ordinary travel and other expenses while engaged in the business of the commission.
 - (10) The commission shall administer and enforce the provisions of this chapter pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.
 - (11) The commission shall have the power to subpoena witnesses and school records as it deems necessary.
 - (12) The commission chairperson shall appoint a complaint committee and designate its chairperson. The chairperson of the complaint committee shall not be employed by, have ownership interest in, or be otherwise affiliated with a licensed institution. School representatives appointed pursuant to subsection (1)(a) or (b) of this section shall not constitute a majority of the committee's membership. A committee member shall not vote on a matter in which a conflict of interest exists. The committee shall review each formal complaint and, if evidence supports an alleged violation of this chapter or any administrative regulation promulgated thereunder, the committee shall:
 - (a) Authorize an investigative report;
 - (b) Participate in informal procedures to resolve complaints;
 - (c) Ensure timely correspondence to parties involved in complaints; and
 - (d) After review of all evidence and investigative reports, make recommendations for the disposition of complaints to the full commission.

- (13) No later than November 30, 2013, and annually thereafter, the commission shall provide a status report on the requirements of this section to the Interim Joint Committee on Licensing and Occupations and the Interim Joint Committee on Education. The report shall include a summary of the data, including school performance information, relating to the requirements of subsection (6)(a) of this section.

➔Section 4. KRS 165A.350 is amended to read as follows:

- (1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless the school shall have been issued by the commission a ~~license~~~~[certificate of approval or a certificate of registration]~~ pursuant to KRS 165A.310 to 165A.410 and the person shall have been issued an agent's permit for said proprietary school.
- (2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the commission.
- (3) Except as otherwise provided, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the commission, and unless the application shall be accompanied by a fee as established by the commission and a good and sufficient surety bond or other collateral as required by the commission but not less than five thousand dollars (\$5,000).
- (4) (a) The surety bond or other collateral shall be conditioned by the commission to recover all necessary administrative costs, including but not limited to costs for the acquisition, permanent filing, and maintenance of student records of the proprietary school or to provide indemnification to any student or enrollee or the student's or enrollee's parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment in a course or courses of instruction or study offered or maintained by the proprietary school, or as a result of the student being unable to complete the course or courses because the proprietary school ceased operations. The amount of liability on the surety bond or other collateral shall cover each agent each school year, as the term "school year" is defined in KRS 165A.310. Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall not exceed the penal sum of the bond. The surety bond may be continuous.
- (b) Any claimant may file with the commission a duly verified claim against an agent. The commission shall consider complaints in a timely manner after ten (10) days' written notice by certified mail, return receipt requested, to the licensee of the complaint giving time and place of hearing thereon and if the claim is found to be correct and due to the claimant, and if the commission cannot effect a settlement by persuasion and conciliation, the commission shall make a demand upon the principal on the bond and the surety thereon, and if not paid shall bring an action on the bond in any court of record within the State of Kentucky.
- (5) The surety bond may be of blanket form to cover more than one (1) agent for a proprietary school, but it shall provide the required minimum coverage for each agent.
- (6) A surety on the bond may be released therefrom after the surety shall make a written notice thereof directed to the commission at least thirty (30) days prior to release.
- (7) The surety bond shall cover the period of the agent's permit, except when a surety shall be released in the manner provided herein.
- (8) Notwithstanding the provisions of other sections, the commission may issue an agent's permit to each person who is an owner of more than ten percent (10%) legal interest in a proprietary school located in this state and who is a resident of this state, and no owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section, if the proprietary school shall have been issued a ~~license~~~~[certificate of approval]~~ pursuant to the provisions of KRS 165A.310 to 165A.410.
- (9) The commission may issue a conditional license on a monthly basis for up to a nine (9) month period of time.
- (10) An agent's permit shall be suspended by operation of law when the agent is no longer covered by a surety bond or other collateral is withdrawn as required by KRS 165A.310 to 165A.410; but the commission shall cause the agent to receive at least ten (10) days' written notice prior to the release of his surety to the effect that the permit shall be suspended by operation of law until another surety bond or other collateral shall be filed in the same manner and like amount as required by the commission.

- (11) An agent's permit shall be valid for a period of one (1) school year as herein defined, except when suspended or canceled pursuant to these provisions. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.
- (12) The owner or owners of the proprietary school shall be held responsible for all actions of their agents when performing their duties as agents.

➔Section 5. KRS 165A.360 is amended to read as follows:

- (1) No person shall maintain or operate a proprietary school located and doing business within this state until said school shall have been issued a **license**~~[certificate of approval]~~ by the commission pursuant to the provisions of KRS 165A.310 to 165A.410. No person shall maintain or operate a proprietary school located without this state and do business within this state until said school shall have been issued a **license**~~[certificate of approval or a certificate of registration]~~ by the commission pursuant to the provisions of KRS 165A.310 to 165A.410. No **license**~~[certificate of approval]~~ shall be issued by the commission to any proprietary school which denies enrollment in said school to any pupil, on account of race, color, or creed. The Kentucky Commission on Human Rights shall have power to make investigation as to discriminatory practices of any proprietary school and shall report thereon to the commission, and said commission shall, upon report that any such school is engaging in discriminatory practices, deny or suspend a **license**~~[certificate]~~ of such school in accordance with the provisions of this section and after notice and public hearing as required herein.
- (2) No proprietary school shall be issued a **license**~~[certificate]~~ unless it shall make application, through its officers or an owner, upon forms to be provided by the commission, and unless the application shall be accompanied by a fee as established by the commission and a good and sufficient surety bond or other collateral in a penal sum of not less than twenty thousand dollars (\$20,000).
- (3)
 - (a) The surety bond or other collateral shall be conditioned by the commission to recover all necessary administrative costs, including but not limited to costs for the acquisition, permanent filing, and maintenance of student records of the school or to provide indemnification to any student or enrollee or his parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment or as a result of any fraud or misrepresentation as represented by the application for the **license**~~[certificate]~~, or as a result of the student being unable to complete the course or courses because the school ceased operations. Such indemnification shall, in no case, exceed the advanced tuition paid or to be paid by said student or students or any such parent or guardian and regardless of the number of years that a school's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.
 - (b) Any claimant may file with the commission a duly verified claim against a proprietary school. The commission shall consider complaints in a timely manner after ten (10) days' written notice by certified mail, return receipt requested, to such school of said complaint giving time and place of hearing thereon and, if such claim is found to be correct and due to the claimant and if the commission cannot effect a settlement by persuasion and conciliation, the commission shall make a demand upon the principal on such bond and the surety thereon, and if not paid may bring an action on such bond in any court of record within the State of Kentucky.
- (4) A surety on said bond may be released therefrom after said surety shall have made a written notice thereof directed to the commission at least thirty (30) days prior to said release.
- (5) The surety bond shall cover the period of the **license**~~[certificate]~~ except when said surety shall be released in the manner as provided by this section.
- (6)
 - (a) The **license**~~[certificate]~~ shall be suspended by operation of law when said proprietary school is no longer covered by a surety bond or other collateral as required by this section; but the commission shall cause said proprietary school to receive at least ten (10) days' written notice prior to the release of said surety to the effect that said approval shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as required for the initial surety bond.
 - (b) The **license**~~[certificate]~~ shall be suspended by operation of law at any time any certified proprietary school shall deny enrollment in said school to any pupil, on account of race, color, or creed.
- (7) The application for a **license**~~[certificate]~~ shall be accompanied by such supporting documents as the commission may require. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of said proprietary school.

- (8) A ~~license~~~~[certificate]~~ shall be valid for a period of one (1) school year. A ~~license~~~~[certificate]~~ may be renewed in the same manner and under the conditions prescribed by the commission.
- (9) ~~Licenses~~~~[Certificates]~~ are transferable to another owner. If a change of ownership occurs, the new owner shall within ten (10) days, reexecute and affirm the application for ~~license~~~~[certificate of approval or certificate of registration]~~ and the information therein, governing said ~~license~~~~[certificate]~~ in effect at the time of sale. The commission may establish a reasonable fee for the recording and processing of such changes.
- (10) The bonding or other collateral requirements herein set forth may be reduced at the sole discretion of the commission upon a showing by the proprietary school that they are excessive in the case of any particular proprietary school.
- (11)
 - (a) Contracts by and between a proprietary school operating or doing business within this state and a student are voidable at the option of the student unless said school has been previously issued a ~~license~~~~[certificate]~~ by the commission.
 - (b) No proprietary school operating or doing business within this state shall be entitled to any money collected from students, in whatever manner collected, unless said school has been previously issued a ~~license~~~~[certificate]~~ by the commission.
 - (c) Contracts by and between a proprietary school operating or doing business within this state which are entered into prior to the issuance of a ~~license~~~~[certificate]~~ by the commission, shall be voidable at the option of the student notwithstanding any subsequent issuance of a ~~license~~~~[certificate]~~ to the school by the commission.
 - (d) Restitution of any money paid by a student under a contract voided pursuant to this section, may be obtained through action brought by the student in either District Court or Circuit Court in the county of the student's residence or other appropriate court, at the option of the student.

➔Section 6. KRS 165A.370 is amended to read as follows:

- (1) No proprietary school located or doing business in this state shall be issued a ~~license~~~~[certificate]~~ under these provisions until the commission has determined that the proprietary school is maintained, operated, or, in the event of a new proprietary school, that the school, after a physical inspection of the premises, can be reasonably maintained and operated, in substantial compliance with the following minimum standards:
 - (a) That the instructional quality and content of each course or program of instruction or study shall be adequate to provide reasonable education and training to each enrolled student, and that the quality and content shall be consistent with the public interest;
 - (b) That the proprietary school has adequate space, equipment, instructional materials, and instructor personnel to provide *the authorized* training and preparation of the quality specified in paragraph (a) of this subsection;
 - (c) That the educational and experience qualifications of directors, administrators, supervisors, and instructors are satisfactory in terms of the quality of instruction specified in paragraph (a) of this subsection;
 - (d) That the administrators shall hold a baccalaureate degree from an accredited college or university, or demonstrate the appropriate training or experience related to the responsibilities of the position as determined by the commission;
 - (e) That the instructors shall hold a baccalaureate degree from an accredited college or university in the area of teaching responsibility, or demonstrate appropriate training or experience related to the responsibilities of the position as determined by the commission;
 - (f) That a copy of the course outline and a schedule of all tuition,~~[-and]~~ fees, *tuition refund schedules*, program completion rates, and program placement rates of the school's graduates for the preceding twelve (12) months be furnished each student applicant prior to enrollment;
 - (g) That, as defined by commission regulation, a diploma, associate degree, certificate, or other appellation shall be awarded to the student upon satisfactory completion of training by the proprietary school which indicates that the course or courses of instruction or study had been satisfactorily completed;
 - (h) That adequate records shall be maintained *on all personnel* and available for inspection and shall include the following materials:

1. Current personnel forms;
 2. Teacher evaluations;
 3. Inventory of equipment and instructional material; and
 4. Faculty transcripts;
- (i) That separate files shall be maintained on each student and be available for inspection, and shall include copies of the following materials:
1. Student's application for admission;
 2. Enrollment agreement;
 3. Academic record;
 4. Attendance record;
 5. Financial payment record; and
 6. Placement record;
- (j) That the proprietary school shall be maintained and operated in compliance with all local, city, and county ordinances and state law, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises;
- (k) That the proprietary school is financially sound and reasonably capable of fulfilling commitments to students for training and preparation;
- (l) That the school shall have available, if requested by the commission, a financial statement certified by an independent accountant, and a profit-loss statement certified by the owner as being true and current. The commission may call for any or all of the above information at any time;
- (m) That the proprietary school does not utilize advertising of any type which is untrue, deceptive, or misleading and shall be able to document all advertised claims;
- (n) That the chief executive officer, directors, owners, administrators, supervisors, and instructors are of good moral character as determined by the commission;
- (o) That the proprietary school adheres to a tuition refund schedule as presented in published form prior to enrollment~~[if the student shall discontinue the training or be excluded therefrom];~~
- (p) That the school shall prominently display its current license and the address and telephone number of the commission office; and
- (q) That the proprietary school adheres to the other requirements consistent with the public interest as the commission shall determine are necessary to improve the courses or programs of instruction or study offered by the school, and to prevent misrepresentation, fraud, and collusion in the offering thereof.
- (2) ***In determining compliance with the minimum standards described in subsection (1) of this section, the commission shall require at a minimum:***
- (a) ***For a degree-granting institution, appropriate accreditation; and***
 - (b) ***For a non-degree granting institution, a statement of quality assurance.***
- (3) The commission shall investigate, appraise, and evaluate from time to time, or upon receipt of a formal complaint, any proprietary school now located, or which may be hereafter located, in this state. The investigation, appraisal, and evaluation shall be for the purpose of determining whether the proprietary school or its programs are maintained and operated or, in the event of a new proprietary school, whether the new proprietary school can be reasonably maintained and operated, in compliance with the provisions of this section and all other applicable Kentucky statutes and administrative regulations. The investigation, appraisal, and evaluation shall include but are not limited to inspection of all records, books, and facilities at reasonable times and places without prior notice.
- ~~(4)~~~~(3)~~ If the commission determines upon investigation, appraisal, and evaluation that a proprietary school located within this state is maintained and operated, or, in the event of a new proprietary school, that the school can be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section, the commission shall issue a ***license***~~[certificate]~~ to the proprietary school.

- (5)~~(4)~~ If the commission determines that any school is not maintained and operated, or cannot be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section and the minimum requirements determined by the commission, or is in violation of Kentucky statutes or administrative regulations, the commission, after notice and an opportunity for a hearing to be conducted in accordance with KRS Chapter 13B, may deny the issuance of a *license*~~certificate~~ or may establish conditions in conformity with these provisions which shall be met by the school prior to issuance of a *license*~~certificate~~. The commission may issue a conditional license for up to a nine (9) month period of time.

➔Section 7. KRS 165A.390 is amended to read as follows:

- (1) An agent's permit may be revoked by the commission for fraud or misrepresentation in procuring or soliciting a student or prospective student for enrollment in a course or courses of instruction or study offered or maintained by a proprietary school located within or without this state. An agent's permit may be revoked by the commission for a false or misleading written or oral statement in the application therefor submitted by the applicant with the intent to mislead or conceal the truth.
- (2) In the event that the *license*~~certificate of approval~~ of the proprietary school designated upon an agent's permit shall be suspended or revoked, or in the event said agent shall leave the employ of said approved proprietary school, the agent's permit shall be suspended by operation of law; provided, that the agent shall be given at least ten (10) days' written notice of said suspension, and of the suspension or revocation of the *license*~~certificate of approval~~ of said proprietary school; and provided further, that said agent shall be entitled to obtain a reissue of his agent's permit for the remaining unexpired period of time, without an additional fee, with another approved proprietary school designated thereon.
- (3) A *license*~~certificate of approval~~ issued to a proprietary school may be suspended or revoked for the failure to maintain and operate a course or courses of instruction or study in compliance with the standards prescribed herein, or for violation of a Kentucky statute or an administrative regulation. A *license*~~certificate of approval~~ may be suspended or revoked by the commission for a false or misleading written or oral statement submitted by the applicant proprietary school with the intent to mislead or conceal the truth.
- (4) An agent's permit or the *license*~~certificate of approval~~ of a proprietary school may be suspended or revoked by the commission for other valid reasons.
- (5) A licensed proprietary school, prior to discontinuance of operation, shall convey all student records as required by the commission to a location designated by the commission. Said records may be retained in such a manner and for such a time as the commission may designate.

➔Section 8. KRS 165A.460 is amended to read as follows:

All proprietary schools located or doing business in this state that offer CDL driver training shall be governed by the provisions of this chapter, except for matters governing:

- (1) The curriculum which shall be established by the *commission*~~board~~ in consultation with the Department of Kentucky State Police and the Kentucky Community and Technical College System; and
- (2) The inspection of CDL driver training school facilities which shall be under the authority of the Department of Kentucky State Police pursuant to KRS 165A.475 and 332.095.

➔Section 9. KRS 165A.475 is amended to read as follows:

- (1) Any person seeking a license to operate, conduct, maintain, or establish a CDL driver training school shall apply to the commission on forms prepared and furnished by the commission. The application shall include the following information:
 - (a) The title or name of the school, the names of the owners of the school, and, if the owner is to be a corporation, the names and addresses of the officers of the corporation;
 - (b) Except for corporations, a statement that the owners of the CDL driver training school are each twenty-one (21) years of age or over, are residents of this state, and have been for at least one (1) year next preceding the application for the CDL driver training school license;
 - (c) A description of the established place of business together with the hours during which the CDL driver training school is conducted and a description of the equipment and facilities used in CDL driver training;
 - (d) Evidence of liability insurance coverage of the CDL driver training school, the instructor, and students of the CDL driver training school while operating driver training school equipment. The insurance shall

have minimum limits of not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident and subject to the limit for any one (1) person, fifty thousand dollars (\$50,000) for bodily injury or death of two (2) or more persons in any one (1) accident and ten thousand dollars (\$10,000) for damage to the property of others in any one (1) accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after ten (10) days prior notice in writing by the carrier to the commission. Upon request by an applicant, the commission shall review an application and provide a letter to the applicant that a proposed CDL driver training school has met all preliminary requirements for approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform CDL driver's training or to operate a school.

- (2) Each original application for a license to operate a CDL driver training school and each application for renewal of a license to operate a CDL driver training school shall be accompanied by the payment of a fee of two hundred dollars (\$200) to the commission and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the commission denies the person the right to be issued a license under this chapter.
- (3) The commission shall pay the Department of Kentucky State Police to inspect and investigate CDL driver training schools under the requirements of subsection (4) of this section. The payment shall be an amount not greater than the actual cost of conducting the inspection and investigation.
- (4) Upon receipt of an application for a license to operate a CDL driver training school, the commission shall request the Department of Kentucky State Police to investigate the person's program and verify the information contained in the application. The Department of Kentucky State Police shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Department of Kentucky State Police shall verify that the school meets the standards promulgated as administrative regulations under KRS Chapter 13A for license as a CDL driver training school. Upon request, the standards shall be furnished to the school by the commission prior to the visit. If the standards are met, the school shall be licensed to offer instruction on how to operate a commercial motor vehicle including classifications, endorsements, and restrictions *as established in KRS 281A.170*.
- (5) Any person seeking a license to act as a CDL driver training instructor shall apply to the commission on forms prepared and furnished by the commission setting forth that the applicant is twenty-one (21) years of age or older; is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license.
- (6) Each original application for a license as a CDL driver training instructor and each application for renewal of a license as a CDL driver training instructor shall be accompanied by the payment of a fee of twenty dollars (\$20) to the commission and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the commission denies the person the right to be issued a license under this chapter.
- (7) In making the determination whether to issue a license under this section, the commission shall consider but shall not be limited to the following:
 - (a) If the applicant has been convicted of a crime as defined in KRS 335B.010;
 - (b) The age of the applicant at the time any criminal conviction was entered;
 - (c) The length of time that has elapsed since the applicant's last criminal conviction;
 - (d) The relationship of any crime convicted to the ability of the applicant to operate a CDL driver training school or to act as a CDL driver training instructor; and
 - (e) The provisions of KRS Chapter 335B.

Signed by Governor April 2, 2018.

CHAPTER 100**(HB 214)**

AN ACT relating to Arthrogryposis Multiplex Congenita.

WHEREAS, it is the custom of this legislative body to recognize official days that are set aside to increase awareness of serious health conditions that affect the lives of citizens of Kentucky; and

WHEREAS, Arthrogryposis Multiplex Congenita, commonly known as AMC, is a rare condition that occurs in utero where there are multiple congenital joint contractures, or multiple joints that are stuck in one position with little or no flexibility, resulting in low muscle tone; and

WHEREAS, joints commonly affected by AMC include joints in the hands, fingers, feet, toes, knees, elbows, shoulders, wrists, and even the spine and jaw; and

WHEREAS, AMC occurs in approximately one in every 3,000 live births in the United States; and

WHEREAS, the cause of AMC is not fully known at this time but may be, in part, due to an unborn baby not moving properly in the uterus; and

WHEREAS, while there is no known cure for AMC, therapy and treatments including physical therapy, multiple castings, splinting, bracing, and various surgical interventions can help to improve an individual's level of independence and quality of life; and

WHEREAS, despite the fact that there is no known cure for AMC, a majority of children diagnosed with AMC grow up to lead successful and independent lives; and

WHEREAS, on June 30 families across the Commonwealth of Kentucky and nation will be wearing the color blue to increase awareness for AMC and honor those affected by the disorder; and

WHEREAS, more than 25 states recognize June 30 as Arthrogryposis Multiplex Congenita Awareness Day;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The thirtieth day of June of each year is designated and shall be observed in Kentucky as "Arthrogryposis Multiplex Congenita Awareness Day."

Signed by Governor April 2, 2018.

CHAPTER 101**(HB 168)**

AN ACT relating to railroad crossings.

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

➔Section 1. KRS 189.550 is amended to read as follows:

Operators of all buses and motor vehicles used for transporting children shall stop their vehicles before crossing any railroad when tracks are at the same level of the roadway. The stop shall be made not less than fifteen (15) feet nor more than fifty (50) feet from the nearest track over which the highway crosses, except where the crossing is protected by gates or a flagman employed by the railroad. After making the stop, the operator shall open the service door and carefully look in each direction and listen for approaching trains or ~~other on-track equipment (maintenance vehicles)~~ before proceeding. If visibility is impaired at the required distance for stopping under this section, the operator may allow the vehicle to slowly roll forward for the purpose of gaining the visibility necessary to safely cross the railroad tracks.

➔Section 2. KRS 189.560 is amended to read as follows:

- (1) The operator of a vehicle shall stop and remain standing at a railroad grade crossing when any of the following conditions exist:
 - (a) A visible electric or mechanical signal device warns of the immediate approach of a railroad train *or other on-track equipment*;
 - (b) A crossing gate is lowered warning of the immediate approach or passage of a railroad train *or other on-track equipment*;
 - (c) An approaching train *or other on-track equipment* is visible and in hazardous proximity; or
 - (d) A human flagman signals the approach or passage of a train *or other on-track equipment*.
- (2) In addition to subsection (1) of this section, a person who holds or is required to hold a CDL as defined in KRS 281A.010 and is driving a commercial motor vehicle shall:
 - (a) Slow down and check that the railroad tracks are clear of an approaching train;
 - (b) Stop and remain standing at a railroad grade crossing if the railroad tracks are not clear;
 - (c) Maintain sufficient space to drive completely through the railroad grade crossing without stopping; and
 - (d) Negotiate a railroad grade crossing only with sufficient undercarriage clearance.
- (3) Whenever the tracks of any railroad or interurban railway over which trains or cars are regularly operated cross a state maintained highway at grade, the cabinet may designate that crossing as "unsafe," and no operator of any vehicle shall cross the crossing without first bringing his vehicle to a full stop no closer than a marked stop line or fifteen (15) feet, nor more than thirty (30) feet, from the nearest rail of the tracks.
- (4) At crossings designated "unsafe," the cabinet shall place and maintain on each side of the tracks on the right side of the highway, at the marked stopping position, or, if the stopping position is not marked, on the pavement not more than twenty-five (25) feet in advance of the track, an octagonal shape sign of a type and size currently approved for use by the cabinet bearing the word "Stop" in white letters not less than ten (10) inches in height.
- (5) The cabinet shall install the signs described in subsection (3) of this section, within sixty (60) days after the crossing is designated unsafe.
- (6) Subsections (3) to (5) of this section shall not apply to grade crossings at which have been constructed and maintained gates, electric warning signals, or other automatic audible signals, or which are protected by watchmen.
- (7) The failure to observe subsections (3) to (6) of this section shall not change the liability of any railroad or interurban railway in the trial of any civil case against the railroad or interurban railway for death or injuries, to person or property.
- (8) If subsection (7) of this section is declared unconstitutional, then subsections (3) to (8) of this section shall be ineffective.

➔Section 3. KRS 189.565 is amended to read as follows:

The operator of any motor vehicle used in the transportation of inflammable liquids or explosives shall stop such motor vehicle before crossing at grade the main track of any railroad or interurban electric railway, except where the crossing is a guarded crossing protected by gates or a flag controlled crossing or operated by an employee of the railroad or interurban company. The stop shall be made no closer than a marked stop line or fifteen (15) feet, nor more than thirty (30) feet, from the nearest track to be crossed. After making the stop, the operator shall look carefully in each direction ~~for approaching cars or trains,~~ and shall not start his vehicle until he has ascertained that no cars, ~~or~~ trains, *or other on-track equipment* are approaching in either direction.

Signed by Governor April 2, 2018.

AN ACT relating to the transportation of agricultural commodities and supplies.

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

➔Section 1. KRS 281.730 is amended to read as follows:

(1) *As used in this section:*

- (a) *"Agricultural commodity" means any agricultural commodity, nonprocessed food, feed, fiber, or livestock;*
- (b) *"Farm supplies for agricultural purposes" means a product directly related to the growing or harvesting of agricultural commodities; and*
- (c) *"Planting and harvesting season" means the period of time that begins on January 1 and ends on December 31 of each year.*

(2) The secretary of the Transportation Cabinet may adopt by reference or set forth in its entirety the provisions of 49 C.F.R. ~~sec. 350.341~~ and *pt. 395* in effect as of July 15, 1986, or as amended with respect to any motor vehicle registered in Kentucky.

(3) *The provisions of 49 C.F.R. pt. 395 adopted or set forth by the secretary of the Transportation Cabinet shall not apply during Kentucky's planting and harvest period to drivers transporting:*

- (a) *Agricultural commodities from the source of the agricultural commodities to a location within a one hundred fifty (150) air-mile radius from the source, or within the maximum radius from the source that is permitted by federal law, whichever is greater;*
- (b) *Farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a one hundred fifty (150) air-mile radius from the distribution point, or within the maximum radius from the distribution point that is permitted by federal law, whichever is greater; or*
- (c) *Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a one hundred fifty (150) air-mile radius from the wholesale distribution point, or within the maximum radius from the wholesale distribution point that is permitted by federal law, whichever is greater.*

~~{(2) The provisions of subsection (1) of this section pertaining to the maximum driving and on duty time shall not apply to transporters of agricultural commodities or farm supplies for agricultural purposes if the transportation is limited to an area within a one hundred (100) air-mile radius from the source of the commodities or distribution point for the farm supplies and is during Kentucky's planting and harvesting seasons. For the purposes of this subsection, Kentucky's planting and harvesting seasons shall mean January 1 to December 31 of each year.~~

~~(3)~~(4) The provisions of ~~subsection (2) of~~ this section shall be void if the Secretary of the United States Department of Transportation determines through a rulemaking proceeding that Section 345(a)(1.) of the National Highway System Designation Act of 1995 presents a hazard to the traveling public.

Signed by Governor April 2, 2018.

CHAPTER 103

(HB 116)

AN ACT relating to jails.

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

➔Section 1. KRS 441.125 is amended to read as follows:

- (1) (a) As used in this section, "community-service-related project" means a project involving work for:
 - 1. The Commonwealth or an agency of the Commonwealth;

2. A county, urban-county, charter county, city, special district, or an agency of any of these entities; or
 3. A ~~nonreligious-sponsored~~ nonprofit, charitable, or service organization ***in projects that serve a public purpose.***
- (b) Work on a community-service-related project shall not confer private benefit on a person except as may be incidental to the public benefit.
- (2) Each jailer shall write a policy governing prisoners working on community-service-related projects, which shall be submitted to the fiscal court for approval. The written policy shall state at a minimum:
- (a) Which type of prisoner, if any, shall be assigned to which type of work, taking into account the physical and mental abilities of prisoners and security of the jail and the general public;
 - (b) That no prisoner shall be assigned to unduly hazardous work that would endanger the life or health of the prisoner or others; and
 - (c) That any prisoner may, for a valid medical reason, decline to work on community-service-related projects. No prisoner shall be punished or otherwise penalized for this refusal.
- (3) A prisoner shall not begin work on a particular community-service-related project without the approval of the director of the relevant entity referred to in subsection (1)(a) of this section, or the director's designee.
- (4) Participation in community-service-related projects shall not be deemed employment for any purpose, and a prisoner shall not be deemed an employee or agent of the entity for which he or she performs the community service work.

Signed by Governor April 2, 2018.

CHAPTER 104

(HB 68)

AN ACT relating to law enforcement support programs, declaring an emergency, and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) ***As used in this section, unless the context requires otherwise:***
- (a) ***"Commissioner" means the commissioner of the department;***
 - (b) ***"Department" means the Department of Criminal Justice Training of the Justice and Public Safety Cabinet;***
 - (c) ***"Fund" means the Law Enforcement Professional Development and Wellness Program fund established in subsection (8) of this section; and***
 - (d) ***"Program" means the Law Enforcement Professional Development and Wellness Program established in this section.***
- (2) ***The department shall develop a Law Enforcement Professional Development and Wellness Program.***
- (3) ***The program shall use seminar-based peer support and counseling services designed to reduce negative mental and behavioral health outcomes.***
- (4) ***The program shall be offered to Kentucky law enforcement officers at least two (2) times each calendar year.***
- (5) ***On a limited basis, the program may be offered to law enforcement officers from states other than Kentucky upon application to and approval by the commissioner. However, no Kentucky law enforcement officers may be denied admission to the program if law enforcement officers from another state are admitted to the program.***

- (6) *The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section. The administrative regulations shall address, at a minimum:*
- (a) *The required qualifications and duties of any person used by the department to implement or administer the program;*
 - (b) *The curriculum, programming, seminar type, and treatment modalities used in the program;*
 - (c) *The extent to which a participating officer's relatives or friends may participate in seminars;*
 - (d) *The standards by which law enforcement officers from other states may be accepted into the program by the commissioner; and*
 - (e) *A protocol for establishing reciprocity for interagency assistance with other state, federal, and tribal law enforcement agencies and officers in administering the program.*
- (7) (a) *Except as provided in paragraphs (b) and (c) of this subsection, communications, identifying data, and any reports made in the application for or in the course of an officer's participation in the program shall be confidential and privileged from disclosure in any civil or criminal proceeding and shall not be subject to discovery, disclosure, or production upon the order or subpoena of a court or other agency with subpoena power, regardless of who possesses them. The participating officer is the holder of the privilege.*
- (b) *The department may use anonymous data for research, statistical analysis, and educational purposes.*
 - (c) *Any communication making an actual threat of physical violence against a clearly identified or reasonably identifiable victim or an actual threat of some specific violent act may be revealed by the program in order to prevent the commission of any physical violence or violent act using the protocol established in KRS 202A.400.*
- (8) (a) *There is hereby established in the State Treasury a restricted fund to be known as the Law Enforcement Professional Development and Wellness Program fund.*
- (b) *The fund shall consist of moneys received from the Kentucky Law Enforcement Foundation Program fund established in KRS 15.430, grants, gifts, state appropriations, and federal funds.*
 - (c) *The fund shall be administered by the department.*
 - (d) *Amounts deposited in the fund shall be used only for administration of the program.*
 - (e) *Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
 - (f) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
 - (g) *Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.*

➔Section 2. Whereas the overall health and well-being of law enforcement officers in the Commonwealth of Kentucky are critically important for public safety, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 2, 2018.

CHAPTER 105

(SB 101)

AN ACT relating to education and declaring an emergency.

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

➔Section 1. KRS 160.380 (Effective July 1, 2018) is amended to read as follows:

- (1) As used in this section:

- (a) "Alternative education program" means a program that exists to meet the needs of students that cannot be addressed in a traditional classroom setting but through the assignment of students to alternative classrooms, centers, or campuses that are designed to remediate academic performance, improve behavior, or provide an enhanced learning experience. Alternative education programs do not include career or technical centers or departments;
 - (b) "Contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor;
 - (c) "Relative" means father, mother, brother, sister, husband, wife, son~~[-]~~ **and** daughter~~[-]~~, ~~aunt, uncle, son-in-law, and daughter-in-law~~; and
 - (d) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.
- (2) Except as provided in KRS 160.346:
- (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district;
 - (b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer **fifteen (15)**~~thirty (30)~~ days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing;
 - (c) When a vacancy needs to be filled in less than **fifteen (15)**~~thirty (30)~~ days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days;
 - (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district;
 - (e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has previously been employed in a school system may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection;
 - (f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the

superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection;

- (g)
 - 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.
 - 2. No spouse of a principal shall be employed in the principal's school, except:
 - a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or
 - b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.
 - 3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
 - 4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph; and
- (h) A relative that is ineligible for employment under paragraph (e), (f), or (g) of this subsection may be employed as a substitute for a certified or classified employee if the relative is not:
 - 1. A regular full-time or part-time employee of the district;
 - 2. Accruing continuing contract status or any other right to continuous employment;
 - 3. Receiving fringe benefits other than those provided other substitutes or
 - 4. Receiving preference in employment or assignment over other substitutes.
- (3) No superintendent shall assign a certified or classified staff person to an alternative education program as part of any disciplinary action taken pursuant to KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to the local district evaluation plan.
- (4) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony or persons with a substantiated finding of child abuse or neglect in records maintained by the Cabinet for Health and Family Services. The superintendent may employ, at his discretion, except at a Kentucky Educational Collaborative for State Agency Children program, persons convicted of sex crimes classified as a misdemeanor.
- (5)
 - (a) A superintendent shall require a national and state criminal background check and require a letter, provided by the individual, from the Cabinet for Health and Family Services indicating the individual is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check and who have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services for the previous employment.
 - (b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.
 - (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring

superintendent. Any fee charged by the Department of Kentucky State Police, the Federal Bureau of Investigation, and the Cabinet for Health and Family Services shall be an amount no greater than the actual cost of processing the request and conducting the search.

- (d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.
- (6)
 - (a) A superintendent shall require a national and state criminal background check and require a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services on all classified initial hires.
 - (b) The superintendent shall require that each classified initial hire submit to a national and state criminal history background check by the Department of Kentucky State Police and require a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.
 - (c) Any request for any criminal background records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under paragraph (b) of this subsection, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police and the Cabinet for Health and Family Services shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (7)
 - (a) The superintendent shall require a contractor who works on school premises during school hours and may require a contractor who does not have contact with students, a volunteer, or a visitor to submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.
 - (b) Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. If requested, the results of the state criminal background check and the results of the national criminal history background check and a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through the results of a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police and the Cabinet for Health and Family Services shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (8)
 - (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services. Application for the criminal record and a request for a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services of a probationary employee shall be made no later than the date probationary employment begins.
 - (b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

- (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.
- (d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.
- (9)
 - (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AND HAVE A LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT."
 - (b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND HAVE A LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE EMPLOYEE IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES AS A CONDITION OF EMPLOYMENT."
 - (c) Each application form for a district position shall require the applicant to:
 - 1. Identify the states in which he or she has maintained residency, including the dates of residency; and
 - 2. Provide picture identification.
- (10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.
- (11)
 - (a) A school-based decision-making council parent member, as defined under KRS 160.345, shall submit to a state and national fingerprint-supported criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.
 - (b) The results of the state criminal history background check and the results of the national criminal history background check, if requested, and a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no findings of substantiated child abuse or neglect found through the results of a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be sent to the district superintendent. Any fee charged by the Department of Kentucky State Police and the Cabinet for Health and Family Services shall be an amount no greater than the actual cost of processing the request and conducting the search. A parent member may serve prior to the receipt of the criminal history background check report but shall be removed from the council on receipt by the school district of a report documenting a record of a sex crime or criminal offense against a victim who is a minor as defined in KRS 17.500 or as a violent offender as defined in KRS 17.165, and no further procedures shall be required.
- (12) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an

employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.

- (13) Notwithstanding any law to the contrary, each certified and classified employee of the school district shall notify the superintendent if he or she has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if he or she has waived the right to appeal a substantiated finding of child abuse or neglect or if the substantiated incident was upheld upon appeal. Any failure to report this finding shall result in the certified or classified employee being subject to dismissal or termination.
- (14) The form for requesting a letter, required by this section, stating an employee is clear to hire based on a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be made available on the Cabinet for Health and Family Services Web site.

➔Section 2. KRS 156.240 is amended to read as follows:

The chief state school officer shall prepare for *electronic* publication biennially, the complete school laws of the state, including abstracts of decisions of the Court of Justice, and opinions and interpretations of the Attorney General and the chief state school officer. He shall explain the true intent and meaning of the school laws and the published administrative regulations of the Kentucky Board of Education, and in doing so he shall freely consult the Attorney General.

➔Section 3. KRS 160.180 is amended to read as follows:

- (1) As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, and daughter.
- (2) No person shall be eligible ~~for~~~~to~~ membership on a board of education:
 - (a) Unless he has attained the age of twenty-four (24) years; and
 - (b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and
 - (c) Unless he has completed at least the twelfth grade or has been issued a High School Equivalency Diploma ~~and he is elected after July 13, 1990~~; and
 - (d) *Unless* an affidavit signed under penalty of perjury certifying completion of the twelfth grade or the equivalent as determined by passage of the twelfth grade equivalency examination held under regulations adopted by the Kentucky Board of Education has been filed with the nominating petition required by KRS 118.315; ~~and~~~~or~~
 - (e) *For a candidate who files a nominating petition as required by KRS 118.315 on or after the effective date of this Act, unless a transcript evidencing completion of the twelfth grade or results of a twelfth grade equivalency examination has been filed with the nominating petition; or*
 - (f) *Who holds any elective federal, state, county, or city office* ~~Who holds a state office requiring the constitutional oath or is a member of the General Assembly; or~~
 - ~~(f) Who holds or discharges the duties of any civil or political office, deputyship, or agency under the city or county of his residence; or~~
 - (g) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended; or
 - (h) Who has been removed from membership on a board of education for cause; or
 - (i) Who has a relative as defined in subsection (1) of this section employed by the school district and is elected after July 13, 1990. However, this shall not apply to a board member holding office on July 13, 1990, whose relative was not initially hired by the district during the tenure of the board member.
- (3) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (g) of subsection (2) of this section, or if he moves his residence from the district for which he was chosen, or if he attempts to influence the hiring of any school employee, except the superintendent of schools or school board attorney, or if he does anything that would render him ineligible for reelection, he shall be subject to removal from office pursuant to KRS 415.050 and 415.060.

- (4) A board member shall be eligible for reelection unless he becomes disqualified.
- (5) The annual in-service training requirements for all school board members in office as of December 31, 2014, shall be as follows:
 - (a) Twelve (12) hours for school board members with zero to three (3) years of experience;
 - (b) Eight (8) hours for school board members with four (4) to seven (7) years of experience; and
 - (c) Four (4) hours for school board members with eight (8) or more years of experience.

The Kentucky Board of Education shall identify the criteria for fulfilling this requirement.

- (6) (a) For all board members who begin their initial service on or after January 1, 2015, the annual in-service training requirements shall be twelve (12) hours for school board members with zero to eight (8) years of experience and eight (8) hours for school board members with more than eight (8) years of experience.
- (b) Training topics for school board members shall include:
 - 1. Three (3) hours of finance, one (1) hour of ethics, and one (1) hour of superintendent evaluation annually for members with zero to three (3) years' experience;
 - 2. Two (2) hours of finance, one (1) hour of ethics, and one (1) hour of superintendent evaluation annually for members with four (4) to seven (7) years' experience; and
 - 3. One (1) hour of finance, one (1) hour of ethics, and one (1) hour of superintendent evaluation biennially for members with eight (8) or more years' experience.

The Kentucky Board of Education shall identify criteria for fulfilling this requirement.

➔Section 4. KRS 160.210 is amended to read as follows:

- (1) (a) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.
- (b) If no candidate files a petition of nomination for a county board of education opening pursuant to KRS 118.315, the chief state school officer shall fill the new term of office for all openings that have no candidate filings under KRS 118.315 by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. ***The chief state school officer shall require and receive the affidavit and transcript required by KRS 160.180 prior to making an appointment.*** The local board of education may make nominations and any person may nominate himself or another for the office.
- (c) Unless a number of candidates equal to or greater than the number of positions to be filled file petitions for nomination for an independent board of education opening pursuant to KRS 118.315, the chief state school officer shall fill the new term of office for all openings that have no candidate filings under KRS 118.315 by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. ***The chief state school officer shall require and receive the affidavit and transcript required by KRS 160.180 prior to making an appointment.*** The local board of education may make nominations and any person may nominate himself or another for the office.
- (2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions containing integral voting precincts and as equal in population insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.
- (3) Any changes made in division boundary lines shall be to make divisions as equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines less than five (5) years after the last change in any division lines, except in case of merger of districts, a change in territory due to annexation, or to allow compliance with KRS 117.055(2).

- (4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the Kentucky Board of Education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the chief state school officer shall cause an investigation to determine the validity of the petition, the investigation to be completed within thirty (30) days after receipt of the petition.
- (b) If the investigation reveals the school district to be unequally divided according to population, the Kentucky Board of Education, upon the recommendation of the chief state school officer, shall order the local board of education to make changes in school district divisions as are necessary to equalize population within the five (5) school divisions.
- (c) If any board fails to comply with the order of the Kentucky Board of Education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the Kentucky Board of Education has been complied with.
- (d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.
- (5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as equal in population as is practicable, with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 notwithstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.
- (6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute shall be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the chief state school officer within ten (10) days following its publication.

➔Section 5. Whereas Section 1 of this Act should take effect as soon as possible, notwithstanding 2017 Ky. Acts ch. 115, sec. 8, which stated that the provisions of KRS 160.380 enacted in 2017 Ky. Acts ch. 115, sec. 3, take effect July 1, 2018, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature April 4, 2018.

AN ACT relating to service delivery improvements in managed care networks.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) *As used in Sections 1 to 5 of this Act:*

- (a) *"Clean application" means a credentialing application submitted by a provider to a credentialing verification organization that:*
 - 1. *Is complete; and*
 - 2. *Does not lack any required substantiating documentation;*
- (b) *"Credentialing application date" means the date that a credentialing verification organization receives a clean application from a provider;*
- (c) *"Credentialing verification organization" means an organization that gathers data and verifies the credentials of providers in a manner consistent with federal and state laws and the requirements of the National Committee for Quality Assurance. "Credentialing verification organization" is limited to the following:*
 - 1. *An organization designated by the department pursuant to subsection (3)(a) of this section; and*
 - 2. *Any bona fide, nonprofit, statewide, health care provider trade association, organized under the laws of Kentucky, that has an existing contract with the department or a managed care organization, as of July 1, 2018, to perform credentialing verification activities for its members, providers who are employed by its members, or providers who practice at the members' facilities;*
- (d) *"Department" means the Department for Medicaid Services;*
- (e) *"Medicaid managed care organization" or "managed care organization" means an entity for which the department has contracted to serve as a managed care organization as defined in 42 C.F.R. sec. 438.2;*
- (f) *"Provider" has the same meaning as in Section 9 of this Act; and*
- (g) *"Request for proposals" has the same meaning as in KRS 45A.070.*

(2) *On and after the effective date of this Act, every contract entered into or renewed for the delivery of Medicaid services by a managed care organization shall be in compliance with Sections 1 to 5, 6, and 7 of this Act.*

- (3)
 - (a) *Through a request for proposals, the department shall designate a single organization as a credentialing verification organization to verify the credentials of providers on behalf of the department and all managed care organizations.*
 - (b) *Following the department's designation pursuant to this subsection, the contract between the department and the designated credentialing verification organization shall be submitted to the Government Contract Review Committee of the Legislative Research Commission for comment and review.*
 - (c) *A credentialing verification organization shall be reimbursed on a per provider credentialing basis by the department. This expense shall be reduced from Medicaid managed care organizations capitation rates.*
 - (d) *Each provider seeking to be enrolled in Medicaid and credentialed with the department and a Medicaid managed care organization shall submit a single credentialing application to the designated credentialing verification organization, or to an organization meeting the requirements of subsection (1)(c)2., if applicable. The credentialing verification organization shall:*
 - 1. *Gather all necessary documentation from each provider;*
 - 2. *Within five (5) days of receipt of a credentialing application, notify the provider in writing if the application is complete;*
 - 3. *Review an application for any misstatement of fact or lack of substantiating documentation;*

4. *Provide verified credentialing packets to the department and to each managed care organization as requested by the provider within thirty (30) calendar days of receipt of a clean application; and*
 5. *Conduct reevaluations of provider documentation when required by state or federal law or for the provider to maintain participation status with the department or a managed care organization.*
- (4) (a) *The department shall enroll a provider within thirty (30) calendar days of receipt of a verified credentialing packet for the provider from a credentialing verification organization. The date of enrollment shall be the date that the provider's clean application was initially received by a credentialing verification organization.*
- (b) *A Medicaid managed care organization shall:*
1. *Determine whether it will contract with the provider within thirty (30) calendar days of receipt of the verified credentialing packet from the credentialing verification organization; and*
 2. *a. Within ten (10) days of an executed contract, ensure that any internal processing systems of the managed care organization has been updated to include:*
 - i. *The accepted provider contract; and*
 - ii. *The provider as a participating provider.*
 - b. In the event that the loading and configuration of a contract with a provider will take longer than ten (10) days, the managed care organization may take an additional fifteen (15) days if it has notified the provider of the need for additional time.*
- (5) *Nothing in this section requires a Medicaid managed care organization to contract with a provider if the managed care organization and the provider do not agree on the terms and conditions for participation.*
- (6) (a) *For the purpose of reimbursement of claims, once a provider has met the terms and conditions for credentialing and enrollment, the provider's credentialing application date shall be the date from which the provider's claims become eligible for payment.*
- (b) *A Medicaid managed care organization shall not require a provider to appeal or resubmit any clean claim submitted during the time period between the provider's credentialing application date and a managed care organization's completion of its credentialing process.*
- (7) *Nothing in this section shall prohibit a university hospital, as defined in KRS 205.639, from performing the activities of a credentialing verification organization for its employed physicians, residents, and mid-level practitioners where such activities are delineated in the hospital's contract with a Medicaid managed care organization. The provisions of subsections (3), (4), (5), and (6) of this section with regard to payment and timely action on a credentialing application shall apply to a credentialing application that has been verified through a university hospital pursuant to this subsection.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

By January 1, 2019, a managed care organization shall establish an interactive Web site, operated by the managed care organization, that allows providers to file grievances, appeals, and supporting documentation electronically in an encrypted format that complies with federal law and that allows a provider to review the current status of a matter relating to an appeal or a grievance filed concerning a submitted claim.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) *A Medicaid managed care organization shall:*
- (a) *Provide:*
1. *A toll-free telephone line for providers to contact the insurer for claims resolution for forty (40) hours a week during normal business hours in this state;*
 2. *A toll-free telephone line for providers to submit requests for authorizations of covered services during normal business hours and extended hours in this state on Monday and Friday through 6 p.m., including federal holidays;*
 3. *With regards to any adverse payment or coverage determination, copies of all documents, records, and other information relevant to a determination, including medical necessity*

criteria and any processes, strategies, or evidentiary standards relied upon, if requested by the provider. Documents, records, and other information required to be provided under this paragraph shall be provided at no cost to the provider; and

4. *For any adverse payment or coverage determination, a written reply in sufficient detail to inform the provider of all reasons for the determination. The written reply shall include information about the provider's right to request and receive at no cost to the provider documents, records, and other information under subparagraph (a)3. of this subsection;*
 - (b) *Afford each participating provider the opportunity for an in-person meeting with a representative of the managed care organization on:*
 1. *Any clean claim that remains unpaid in violation of KRS 304.17A-700 to 304.17A-730; and*
 2. *Any claim that remains unpaid for forty-five (45) days or more after the date the claim is received by the managed care organization and that individually or in the aggregate exceeds two thousand five hundred dollars (\$2,500);*
 - (c) *Reprocess claims that are incorrectly paid or denied in error, in compliance with KRS 304.17A-708. The reprocessing shall not require a provider to rebill or resubmit claims to obtain correct payment. No claim shall be denied for timely filing if the initial claim was timely submitted; and*
 - (d) *Establish processes for internal appeals, including provisions for:*
 1. *Allowing a provider to file any grievance or appeal related to the reduction or denial of the claim within sixty (60) days of receipt of a notification from the managed care organization that payment for a submitted claim has been reduced or denied; and*
 2. *Ensuring the timely consideration and disposition of any grievance or any appeal within thirty (30) days from the date the grievance or appeal is filed with the managed care organization by a provider under this paragraph.*
- (2) (a) *For the purposes of this subsection:*
1. *"Timely" means that an authorization or preauthorization request shall be approved:*
 - a. *For an expedited authorization request, within seventy-two (72) hours after receipt of the request. The timeframe for an expedited authorization request may be extended by up to fourteen (14) days if:*
 - i. *The enrollee requests an extension; or*
 - ii. *The Medicaid managed care organization justifies to the department a need for additional information and how the extension is in the enrollee's interest; and*
 - b. *For a standard authorization request, within two (2) business days. The timeframe for a standard authorization request may be extended by up to fourteen (14) additional days if:*
 - i. *The provider or enrollee requests an extension; or*
 - ii. *The Medicaid managed care organization justifies to the department a need for additional information and how the extension is in the enrollee's interest; and*
 2. *a. "Expedited authorization request" means a request for authorization or preauthorization where the provider determines that following the standard a timeframe could seriously jeopardize an enrollee's life or health, or ability to attain, maintain, or regain maximum function; and*
 - b. A request for authorization or preauthorization for treatment of an enrollee with a diagnosis of substance use disorder shall be considered an expedited authorization request by the provider and the managed care organization.*
- (b) *A decision by a managed care organization on an authorization or preauthorization request for physical, behavioral, or other medically necessary services shall be made in a timely and consistent manner so that Medicaid members with comparable medical needs receive a comparable, consistent level, amount, and duration of services as supported by the member's medical condition, records, and previous affirmative coverage decisions.*

- (3) (a) *Each managed care organization shall report on a monthly basis to the department:*
1. *The number and dollar value of claims received that were denied, suspended, or approved for payment;*
 2. *The number of requests for authorization of services and the number of such requests that were approved and denied;*
 3. *The number of internal appeals and grievances filed by members and by providers and the type of service related to the grievance or appeal, the time of resolution, the number of internal appeals and grievances where the initial denial was overturned and the type of service and dollar amount associated with the overturned denials; and*
 4. *Any other information required by the department.*
- (b) *The data required in paragraph (a) of this subsection shall be separately reported by provider category, as prescribed by the department, and shall at a minimum include inpatient acute care hospital services, inpatient psychiatric hospital services, outpatient hospital services, residential behavioral health services, and outpatient behavioral health services.*
- (4) *On a monthly basis, the department shall transmit to the Department of Insurance a report of each corrective action plan, fine, or sanction assessed against a Medicaid managed care organization for violation of a Medicaid managed care organization's contract relating to prompt payment of claims. The Department of Insurance shall then make a determination of whether the contract violation was also a violation of KRS 304.17A-700 to 304.17A-733.*
- (5) *Any Medicaid managed care organization that fails to comply with this section and Sections 1 to 5, 6, and 7 of this Act may be subject to fines, penalties, and sanctions, up to and including termination, as established under its Medicaid managed care contract with the department.*

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

The department shall not automatically assign a Medicaid enrollee to a managed care organization.

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

- (1) *A Medicaid managed care organization shall have a utilization review plan, as defined in KRS 304.17A-600, that meets the requirements established in 42 C.F.R. pts. 431, 438, and 456. If the Medicaid managed care organization utilizes a private review agent, as defined in KRS 304.17A-600, the agent shall comply with all applicable requirements of KRS 304.17A-600 to 304.17A-633.*
- (2) *In conducting utilization reviews for Medicaid benefits, each Medicaid managed care organization shall use the medical necessity criteria selected by the Department of Insurance pursuant to Section 10 of this Act, for making determinations of medical necessity and clinical appropriateness pursuant to the utilization review plan required by subsection (1) of this section.*

➔Section 6. KRS 205.522 is amended to read as follows:

A managed care organization that provides Medicaid benefits pursuant to this chapter shall comply with the provisions of KRS 304.17A-235, *Section 7 of this Act*, and 304.17A-740 to 304.17A-743.

➔Section 7. KRS 304.17A-515 is amended to read as follows:

- (1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:
 - (a) An adequate number of accessible acute care hospital services, where *physically* available;
 - (b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;
 - (c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;
 - (d) The availability of specialty services; and
 - (e) A provider network that meets the following accessibility requirements:

1. For urban areas, a provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence or work, to the extent that services are available; or
 2. For areas other than urban areas, a provider network that makes available primary care physician services, hospital services, and pharmacy services within thirty (30) minutes or thirty (30) miles of each enrollee's place of residence or work, to the extent those services are available. All other providers shall be available to all persons enrolled in the plan within fifty (50) minutes or fifty (50) miles of each enrollee's place of residence or work, to the extent those services are available.
- (2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.
- (3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

➔Section 8. KRS 304.17A-576 is amended to read as follows:

- (1) An insurer issuing a managed care plan shall notify an applicant of its determination regarding a properly submitted application for credentialing within **forty-five (45)**~~ninety (90)~~ days of receipt of an application containing all information required by the most recent version of the Council for Affordable **Quality** Healthcare (CAQH) credentialing form. Nothing in this section shall prevent an insurer from requiring information beyond that contained in the credentialing form to make a determination regarding the application.
- (2) The **forty-five (45)**~~ninety (90)~~ day requirement set forth in subsection (1) of this section shall not apply if the failure to notify is due to or results from, in whole or in part, acts or events beyond the control of the insurer issuing a managed care plan, including but not limited to acts of God, natural disasters, epidemics, strikes or other labor disruptions, war, civil disturbances, riots, or complete or partial disruptions of facilities.
- (3) Following credentialing, the applicant and, upon the applicant's signing of a contract with the managed care plan, the insurer shall make payments to the applicant for services rendered during the credentialing process in accordance with procedures for reimbursement for participating providers.
- (4) An applicant for which an application for credentialing is denied shall be reimbursed, if the enrollee is enrolled in a plan which provides for out-of-network benefits, by the insurer issuing a managed care plan in accordance with procedures for reimbursement to nonparticipating providers.

➔Section 9. KRS 304.17A-700 is amended to read as follows:

As used in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123:

- (1) "Adjudicate" means an insurer pays, contests, or denies a clean claim;
- (2) "Claims payment time frame" means the time period prescribed under KRS 304.17A-702 following receipt of a clean claim from a provider at the address published by the insurer, whether it is the address of the insurer or a delegated claims processor, within which an insurer is required to pay, contest, or deny a health care claim;
- (3) "Clean claim" means a properly completed billing instrument, paper or electronic, including the required health claim attachments, submitted in the following applicable form:
 - (a) A clean claim from an institutional provider shall consist of:
 1. The UB-92 data set or its successor submitted on the designated paper or electronic format as adopted by the NUBC;
 2. Entries stated as mandatory by the NUBC; and
 3. Any state-designated data requirements determined and approved by the Kentucky State Uniform Billing Committee and included in the UB-92 billing manual effective at the time of service.
 - (b) A clean claim for dentists shall consist of the form and data set approved by the American Dental Association.
 - (c) A clean claim for all other providers shall consist of the HCFA 1500 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Claims Committee.
 - (d) A clean claim for pharmacists shall consist of a universal claim form and data set approved by the National Council on Prescription Drug Programs;

- (4) "Commissioner" means the commissioner of the Department of Insurance;
- (5) "Covered person" means a person on whose behalf an insurer offering a health benefit plan is obligated to pay benefits or provide services;
- (6) "Department" means the Department of Insurance;
- (7) "Electronic" or "electronically" means electronic mail, computerized files, communications, or transmittals by way of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;
- (8) "Health benefit plan" has the same meaning as provided in KRS 304.17A-005;
- (9) "Health care provider" or "provider" means a provider licensed in Kentucky as defined in KRS 304.17A-005 and, for the purposes of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, **and Section 1 of this Act**, 304.14-135, and 304.99-123 only, shall include physical therapists licensed under KRS Chapter 327, psychologists licensed under KRS Chapter 319, and social workers licensed under KRS Chapter 335. Nothing contained in KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 shall be construed to include physical therapists, psychologists, and social workers as a health care provider or provider under KRS 304.17A-005;
- (10) "Health claim attachments" means medical information from a covered person's medical record required by the insurer containing medical information relating to the diagnosis, the treatment, or services rendered to the covered person and as may be required pursuant to KRS 304.17A-720;
- (11) "Institutional provider" means a health care facility licensed under KRS Chapter 216B;
- (12) "Insurer" has the same meaning provided in KRS 304.17A-005;
- (13) "Kentucky Uniform Billing Committee (KUBC)" means the committee of health care providers, governmental payors, and commercial insurers established as a local arm of NUBC to implement the bill requirements of the NUBC and to prescribe any additional billing requirements unique to Kentucky insurers;
- (14) "National Uniform Billing Committee (NUBC)" means the national committee of health care providers, governmental payors, and commercial insurers that develops the national uniform billing requirements for institutional providers as referenced in accordance with the Federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Chapter 6A, Subchapter XXV, secs. 300gg et seq.;
- (15) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person; and
- (16) "Utilization review" has the same meaning as provided in KRS 304.17A-600~~[(18)]~~.

➔SECTION 10. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The commissioner shall promulgate an administrative regulation to establish procedures for conducting a competitive process to solicit proposals from publishers of medical necessity criteria to designate for each category of services which medical necessity criteria Medicaid managed care organizations, as defined in Section 1 of this Act, shall use to determine the medical necessity and clinical appropriateness of proposed services pursuant to the utilization review plan required by Section 5 of this Act.*
- (b) *The procedures shall require:*
 - 1. *The department to provide adequate public notice of the deadline for publishers of medical necessity criteria to submit proposals; and*
 - 2. a. *The commissioner to issue a final order at the conclusion of the competitive process.*
 - b. *The order shall designate, for each category of services, one (1) set of medical necessity criteria determined by the commissioner to be the most advantageous to the Commonwealth.*
 - c. *Nothing in this section shall preclude the commissioner from designating the same set of medical necessity criteria for two (2) or more categories of service if the commissioner determines, in accordance with the procedures required by this subsection, that the designation would be the most advantageous to the Commonwealth.*

- (c) *The procedures shall permit any person who is aggrieved in connection with the solicitation of proposals or the commissioner's final order to request a hearing pursuant to KRS 304.2-310.*
- (2) (a) *For purposes of this subsection, "objective and evidence-based" includes:*
 - 1. *Methods or systems where:*
 - a. *The publisher evaluates and grades the sufficiency of medical evidence incorporated into the criteria;*
 - b. *The publisher reviews and updates the criteria periodically as appropriate, but no less frequently than annually; and*
 - c. *The criteria are evaluated annually by a panel of one (1) or more physicians not directly employed by the publisher of the criteria; and*
 - 2. *Sufficient unique citations to published medical research and other peer-reviewed literature to substantiate the criteria's evidentiary basis.*
- (b) *In conducting the competitive process required by subsection (1) of this section, the commissioner shall only accept proposals from publishers of medical necessity criteria if the criteria:*
 - 1. *Are nationally recognized;*
 - 2. *Are objective and evidence-based; and*
 - 3. *Are not proprietary property of a Medicaid managed care organization or a subsidiary of a Medicaid managed care organization, or a corporation which a Medicaid managed care organization controls or owns more than five percent (5%) of the stock.*
- (3) *The categories of service shall be limited to:*
 - (a) *Physical health services;*
 - (b) *Behavioral health services; and*
 - (c) *Any other categories of service required under federal law for Medicaid managed care.*
- (4) (a) *Notwithstanding KRS 13A.3102, any administrative regulation promulgated under this section shall expire two (2) years from the last effective date, as defined in KRS 13A.010, unless the department follows the certification or amendment process established in KRS 13A.3104.*
- (b) *If the department files a certification letter pursuant to KRS 13A.3104, and does not intend to amend an administrative regulation promulgated under this section, it shall allow for a public comment period and public hearing on the certification letter meeting the requirements of KRS 13A.270.*
- (5) *In promulgating any administrative regulation under this section, the commissioner shall:*
 - (a) *Collaborate with the Department for Medicaid Services to ensure that the regulation is consistent with:*
 - 1. *Federal requirements relating to Medicaid managed care medical necessity review criteria; and*
 - 2. *Any administrative regulation promulgated by the Department for Medicaid Services that is not inconsistent with this section, relating to the processes Medicaid managed care organizations are required to follow when using the medical necessity criteria designated pursuant to this section;*
 - (b) *Set forth in any federal mandate analysis comparison for an administrative regulation promulgated under this section:*
 - 1. *A description of any federal requirements relating to Medicaid managed care medical necessity review criteria; and*
 - 2. *A summary of all input provided by the Department for Medicaid Services to the commissioner relating to the form and content of the regulation; and*
 - (c) *Receive from the Department for Medicaid Services the input of healthcare professionals, which shall include members of the Advisory Council for Medical Assistance established pursuant to KRS 205.540, in each category of care in accordance with subsection (3) of this section.*

➔Section 11. KRS 304.3-200 is amended to read as follows:

- (1) The commissioner may, in his or her discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he or she finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:
 - (a) Willfully violated or willfully failed to comply with any lawful order of the commissioner; or
 - (b) Willfully violated or willfully failed to comply with any lawful regulation of the commissioner; or
 - (c) Willfully violated any provision of this code other than those for violation of which suspension or revocation is mandatory; or
 - (d) Failed to pay taxes on its premiums as required by law; or
 - (e) Has committed any unfair claims settlement practice as defined in Subtitle 12 or regulations promulgated thereunder.

In lieu of or in addition to such suspension or revocation, the commissioner may, in his or her discretion, reprimand the insurer, which shall be made a part of the insurer's record, or may levy upon the insurer, and the insurer shall pay forthwith, an administrative fine as specified in KRS 304.99-020.

- (2) The commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he or she finds after a hearing thereon that the insurer:
 - (a) Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state currently or prospectively hazardous or injurious to policyholders or to the public;
 - (b) With such frequency as to indicate its general business practice in this state:
 1. Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person; or
 2. Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims;
 - (c) Refuses to be examined, or if its directors, officers, employees or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination;
 - (d) Has failed to pay any final judgment rendered against it in this state upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within thirty (30) days after the judgment became final or within thirty (30) days after dismissal of an appeal before final determination, whichever date is the later;
 - (e) Has actual knowledge by the chief executive officer or person in charge of Kentucky operations that an agent employed by the insurer has engaged or is engaging in conduct in violation of this code and the insurer has failed to report such conduct to the department; or
 - (f) No insurer, its agents, servants, or employees shall incur any liability in connection with or as a result of any disclosure made to the commissioner of insurance pursuant to the provisions of this section.
- (3) The commissioner may, in his or her discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public insurance supervisory officer of such state.
- (4) *The commissioner may, in his or her discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he or she finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has contracted with the Department for Medicaid Services to act as a managed care organization providing Medicaid benefits pursuant to KRS Chapter 205 and has exhibited willful or frequent and repeated failure to comply with KRS 304.17A-700 to 304.17A-730, 205.593, and 304.14-135 and Sections 1 to 5, 6, and 7 of this Act.*

➔Section 12. KRS 304.38-130 is amended to read as follows:

- (1) The commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization under this subtitle if the commissioner finds that any of the conditions exist for which the commissioner could suspend or revoke a certificate of authority as provided in Subtitles 2 and 3 of this chapter or if the commissioner finds that any of the following conditions exist:
 - (a) The health maintenance organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under KRS 304.38-040, unless amendments to such submissions have been filed with and approved by the commissioner;
 - (b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of KRS 304.38-050 or Subtitle 17A of this chapter;
 - (c) The health maintenance organization does not provide or arrange for health care services as approved by the commissioner in KRS 304.38-050(1)(a);
 - (d) The certificate of need and licensure board certifies to the commissioner that the health maintenance organization fails to meet the requirements of the board or that the health maintenance organization is unable to fulfill its obligations to furnish health care services;
 - (e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;
 - (f) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;
 - (g) The continued operation of the health maintenance organization would be hazardous to its enrollees;~~or~~
 - (h) The health maintenance organization has otherwise failed to substantially comply with this subtitle; *or*
 - (i) ***The health maintenance organization has contracted with the Department for Medicaid Services to act as a managed care organization providing Medicaid benefits pursuant to KRS Chapter 205 and has exhibited willful or frequent and repeated failure to comply with KRS 304.17A-700 to 304.17A-730, 205.593, and 304.14-135 and Sections 1 to 5, 6, and 7 of this Act.***
- (2) If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of the suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.
- (3) If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation whatsoever. The commissioner may, by written order, permit the further operation of the organization as the commissioner may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage. If the commissioner permits such further operation the health maintenance organization will continue to collect the periodic prepayments required of enrollees.

➔Section 13. KRS 304.99-123 is amended to read as follows:

- (1) In addition to any other penalty or remedy authorized by law, the department may assess the following fines for noncompliance with KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123:
 - (a) A fine of one thousand dollars (\$1,000) per day or ten percent (10%) of the unpaid claim amount, whichever is greater, for each day that a clean claim remains unpaid in violation of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123; and
 - (b) Except for the late payment of claims under subsection (2) of this section, a fine of up to ten thousand dollars (\$10,000) where the commissioner determines that an insurer has willfully and knowingly violated KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123 or has a pattern of repeated violations of KRS 304.17A-700 to 304.17A-730 and KRS 205.593, 304.14-135, and 304.99-123.

- (2) For purposes of paragraph (a) of subsection (1) of this section ***and subsection (3) of this section***, an insurer is in compliance when:
- (a) Ninety-five percent (95%) of the clean claims received by the insurer, its agent, or designee during each calendar quarter, excluding pharmaceutical claims, were adjudicated within the claims payment timeframes in accordance with KRS 304.17A-702; and
 - (b) At least ninety percent (90%) of the total dollar amount for clean claims received by the insurer, its agent, or designee during each calendar quarter, excluding pharmaceutical claims, that were not denied or contested, was paid within the claims payment timeframes established in KRS 304.17A-702.
 - (3) ***In addition to any other penalty or remedy authorized by law, the department may assess the fines authorized by subsection (1) of this section against any Medicaid managed care organization, as defined in Section 1 of this Act, for noncompliance with KRS 304.17A-700 to 304.17A-730, 205.593, and 304.14-135 and Sections 1 to 5, 6, and 7 of this Act.***

➔Section 14. Sections 1, 3, 4, 5, 6, 7, 8, and 9 of this Act take effect January 1, 2019.

Became law without Governor's signature April 4, 2018.

CHAPTER 107

(SB 151)

AN ACT relating to retirement.

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

➔Section 1. KRS 6.505 is amended to read as follows:

- (1) (a) Each legislator in office on July 1, 1980, may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the Legislators' Retirement Plan, in an amount equal to five percent (5%) of his monthly creditable compensation, as defined in KRS 61.510(13), ***or the amount specified by paragraph (d) of this subsection***. The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he shall pay to the Legislators' Retirement Plan, for the months between July 1, 1980, and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan.
- (b) 1. For a member who begins participating in the Legislators' Retirement Plan prior to January 1, 2014, the election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530, ***except that the General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 6.500 to 6.577 that become effective on or after July 1, 2018.***
- 2. a. For members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 6.500 to 6.577 if, in its judgment, the welfare of

- the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- b. For purposes of this subparagraph, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
 - c. The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 6.500 to 6.577, for members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, except the benefits specified by subparagraph 2.b. of this paragraph.
3. The provisions of this paragraph shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Legislators' Retirement Plan as provided by KRS 6.500 to 6.577 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.
- (c) An election once made under this section either to participate or not to participate in the Legislators' Retirement Plan, shall be considered to apply to all future service as a legislator ***except as provided by Section 7 of this Act or subsection (3) of Section 8 of this Act***, whether in the same or a different office as a legislator, and whether or not it is in successive terms.
 - (d) Notwithstanding the provisions of this subsection:
 1. A legislator who becomes a member of the Legislators' Retirement Plan on or after September 1, 2008, but prior to January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his monthly creditable compensation, as defined in KRS 61.510(13);~~+~~
 2. A legislator who becomes a member of the Legislators' Retirement Plan on or after January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), of which:
 - a. Five percent (5%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used to provide funding for benefits provided under KRS 21.402; and
 - b. One percent (1%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used exclusively to help fund retiree health benefits as provided by KRS 6.577 and shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The amounts deducted under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 6.530.
- (2) A legislator entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 6.500 to 6.577, ***except that the General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 6.500 to 6.577 that become effective on or after July 1, 2018.***
 - (3) When any legislator makes a delayed election of membership in the Legislators' Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service. However, any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement

System to the Legislators' Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.

- (4) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) When any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.
- (6) A member of the Legislators' Retirement Plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees Retirement System, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Legislators' Retirement Plan.

➔Section 2. KRS 6.518 is amended to read as follows:

- (1) For purposes of this section, "bona fide promotion or career advancement":
 - (a) Means a professional advancement in substantially the same line of work held by the member in the four (4) years immediately prior to the final five (5) annual years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the member that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member; and
 - (b) Does not include any circumstance in which a legislator participating in the Legislators' Retirement Plan takes a position of employment with an employer participating in any of the other state-administered retirement systems.
- (2) (a) For members retiring on or after January 1, 2018, the plan shall, for each of the retiring member's last five (5) annual years of service in the General Assembly or with any employer participating in any of the state-administered retirement systems, identify any annual year in which the creditable compensation used to calculate benefits in the Legislators' Retirement Plan increased at a rate of ten percent (10%) or more annually over the immediately preceding annual year's creditable compensation.

- (b) Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in creditable compensation for an annual year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the member's creditable compensation from the immediately preceding annual year shall not be included in the creditable compensation used to calculate the member's monthly pension benefits. If the creditable compensation for a specific annual year identified under paragraph (a) of this subsection as exceeding the ten percent (10%) increase limitation is not used to calculate the retiring member's monthly pension benefits, then no reduction in creditable compensation shall occur for that annual year. Reductions to creditable compensation as provided by this paragraph shall include any creditable compensation used to calculate the retiring member's benefits, including creditable compensation earned in another state-administered retirement system.
- (c) If the creditable compensation of the retiring member is reduced as provided by paragraph (b) of this subsection, the retirement system shall, notwithstanding KRS 21.460 and as applicable, refund the member contributions attributable to the reduction in creditable compensation.
- (3) In order to ensure the prospective application of the limitations on increases in creditable compensation contained in subsection (2) of this section, only the creditable compensation earned by the retiring member on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Creditable compensation earned by the retiring member prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.
- (4) Subsections (2) and (3) of this section shall not apply to increases that are the direct result of a bona fide promotion or career advancement.
- (5) The Judicial Form Retirement System board of trustees shall determine whether increases in creditable compensation during the last five (5) annual years of employment prior to retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section. All state-administered retirement systems shall cooperate to implement this section.
- (6) This section shall not apply to:
 - (a) Employees participating in the hybrid cash balance ~~plans[plan]~~ as provided by KRS 21.402 *or Section 19 of this Act; or*
 - (b) *Service earned in the 401(a) money purchase plan as provided by Section 12 of this Act.*

➔Section 3. KRS 6.520 is amended to read as follows:

- (1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the three (3) years during which the member had the highest creditable legislative compensation.
- (2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400(2) and (3) in the Judicial Retirement Plan for members of that plan, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.
- (3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982, that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the three (3) years during which the member had the highest creditable legislative compensation.
- (4) ~~Notwithstanding any other provision of KRS 6.500 to 6.577 or 21.345 to 21.580[Subsections (1) and (2) of this section] to the contrary[notwithstanding],~~ a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982 but prior to January 1, 2014, who retires on or after his normal retirement date,

shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to:

- (a) Two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service ***accrued prior to January 1, 2019; and***
- (b) ***One and ninety-seven one-hundredths percent (1.97%) of his or her final compensation multiplied by the number of years of his or her service accrued on or after January 1, 2019.***~~[-but]~~

In no event ***shall the benefit provided by this subsection***~~[-to]~~ exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the three (3) years during which the member had the highest creditable legislative compensation.

- (5) Subsections (1) to (4) of this section shall not apply to members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014.

➔Section 4. KRS 6.525 is amended to read as follows:

The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in KRS 21.345(1), 21.345(3) to (6), 21.357, 21.360(1), 21.370 to 21.410, 21.374, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525, 21.540, and 61.552 for the Judicial Retirement Plan, except that:

- (1) Five (5) years of service as a legislator will be sufficient for vesting; and
- (2) (a) A member of the Legislators' Retirement Plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680(2)(a), except that the salary used to determine final compensation, if applicable, shall be based on the creditable compensation in KRS 61.510(13) for service while a member of the General Assembly whether or not a member of the Legislators' Retirement Plan.
- (b) 1. For members contributing on or after June 20, 2005 but prior to January 1, 2014, ***who have service credit in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, or Teachers' Retirement System prior to January 1, 2019:*** Upon retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits as provided in KRS 61.680(2)(a) and in the same manner as for the other retirement systems using the highest salary regardless of the system in which it was earned, ***except that any salary earned in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, or Kentucky Teachers' Retirement System on or after January 1, 2019, shall not be used to determine benefits in the Legislators' Retirement Plan.***
- 2. ***The consolidation of accounts as provided by this paragraph shall not apply to accounts in the State Police Retirement System, the Kentucky Employees Retirement System, the County Employees Retirement System, and the Teachers' Retirement System, from which the member is receiving a retirement benefit.***
- 3. For purposes of this paragraph, "retirement" means the month in which the member elects to begin receiving benefits or benefits become payable due to the member's death.
- (c) A member who has an account in the Legislators' Retirement Plan and the Judicial Retirement Plan may combine his service in both plans for purposes of determining:
 - 1. Eligibility and the amount of benefits; and
 - 2. Final compensation, provided the member began participating in the Legislators' Retirement Plan prior to January 1, 2014, ***and except that any salary earned in the Judicial Retirement Plan on or after January 1, 2019, shall not be used to determine final compensation in the Legislators' Retirement Plan.***
- (d) A member who began participating in the Legislators' Retirement Plan prior to January 1, 2014, may retire at the completion of twenty-seven (27) or more years of combined service credit, so long as at

least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65).

- (e) For the purposes of this section, any reference in the KRS sections listed above to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan.
- (3) Any other statute to the contrary notwithstanding, a member of any state-administered retirement system who has ceased to qualify for membership but subsequently returns to a qualified status, shall, for the purposes of determining the date of entry into the state-administered retirement system for the subsequent period or periods of service, be deemed to have never left the retirement system.

➔Section 5. KRS 21.360 is amended to read as follows:

- (1) (a) Each Judge of the District Court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to:
 - 1. Five percent (5%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan prior to September 1, 2008;
 - 2. Six percent (6%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan on or after September 1, 2008, but prior to January 1, 2014; or
 - 3. Six percent (6%) of his or her monthly official salary, if the judge or justice who becomes a member of the Kentucky Judicial Retirement Plan on or after January 1, 2014, which shall be used to fund benefits as follows:
 - a. Five percent (5%) of the monthly official salary shall be used to provide funding for benefits provided under KRS 21.402; and
 - b. One percent (1%) of the monthly official salary to be used exclusively to help fund retiree health benefits as provided by KRS 21.427 and which shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The deducted amounts under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 21.347.
- (b) The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, the amount required by paragraph (a) of this subsection, as a voluntary contribution by the member towards the funding of the retirement system. For a member who began contributing to the Judicial Retirement Plan prior to January 1, 2014, the contribution shall continue until the judge or justice is vested in a service retirement allowance equal to one hundred percent (100%) of final compensation. Thereafter employee contributions shall be discontinued but continued service and retirement benefits shall not be affected thereby.
- (2) A judge or justice entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office in 1980 or who elected membership in the Kentucky Employees Retirement System may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510, ***except that the General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 21.345 to 21.580 that become effective on or after July 1, 2018.***
- (3) (a) When any judge makes a delayed election of membership in the Judicial Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Judicial Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a judge, which he then has or which he subsequently regains while being an active member of the Judicial Retirement Plan, shall be transferred to and counted as service credit in the Judicial Retirement Plan, and shall no longer

constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system, if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service.

- (b) Any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a judge, shall not be affected. Notwithstanding any provisions of KRS 61.680 to the contrary, final compensation used to determine benefits for any service credit remaining in the Kentucky Employees Retirement System shall be based on the highest years of compensation as a judge whether the years occur before or after the judge elects membership in the Judicial Retirement Plan.
- (c) No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Judicial Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially-assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.
- (4) Membership and benefit rights for judges and justices (other than Judges of the District Court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.
- (5) When any Judge of the District Court in office on July 1, 1978, elects membership in the Judicial Retirement ~~Plan~~~~System~~ in accordance with this section, his membership in the Kentucky Employees Retirement System shall terminate as of July 1, 1978, and any credit in that system he earned for service as a Judge of the District Court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.
- (6) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (7) An election once made under this section, either to participate or not to participate in the Judicial Retirement Plan, shall be considered to apply, to all future service in any office covered by the plan, ***except as provided by Section 7 of this Act and subsection (3) of Section 8 of this Act***, whether such service is in the same or a different office, and whether or not it is continuous.

➔Section 6. KRS 21.372 is amended to read as follows:

- (1) For purposes of this section:
 - (a) "Bona fide promotion or career advancement":
 - 1. Means a professional advancement in substantially the same line of work held by the member in the four (4) years immediately prior to the final sixty (60) months preceding retirement or a change in employment position based on the training, skills, education, or expertise of the member that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member, including any circumstance when a member is elected or appointed to another court within the Court of Justice; and

2. Does not include any circumstance where a judge or justice participating in the Judicial Retirement Plan takes a position of employment with an employer participating in any of the other state-administered retirement systems; and
- (b) "Year" has the same meaning as in KRS 21.345(3).
- (2) (a) For members retiring on or after January 1, 2018, the plan shall identify any consecutive year utilized in determining the member's final compensation in which the member's compensation increased at a rate of ten percent (10%) or more over the member's compensation in the immediately preceding year.
- (b) Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in compensation for a year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the member's compensation from the immediately preceding year shall not be used in the calculation of the member's final compensation for the purposes of determining the member's monthly pension benefit under KRS 21.400.
- (c) If the member's final compensation is reduced for the purposes of determining the member's pension benefit under KRS 21.400 as provided by paragraph (b) of this subsection, the retirement system shall, notwithstanding KRS 21.460 and as applicable, refund the member contributions attributable to the reduction in creditable compensation.
- (3) In order to ensure the prospective application of the potential reduction in pension benefits as provided in subsection (2) of this section, only the compensation earned by the retiring member on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Compensation earned by the retiring member prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.
- (4) Subsections (2) and (3) of this section shall not apply to increases that are the direct result of a bona fide promotion or career advancement or to compensation used in accordance with KRS 61.680(7) in which the member does not have sixty (60) months of service in the Judicial Retirement Plan.
- (5) The ~~Judicial Form Retirement System~~ board of trustees shall determine whether increases in compensation during the final sixty (60) months preceding retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section. All state-administered retirement systems shall cooperate to implement this section.
- (6) This section shall not apply to:
 - (a) Employees participating in the hybrid cash balance ~~plans~~~~plan~~ as provided by KRS 21.402 *or Section 19 of this Act; or*
 - (b) *Service earned in the 401(a) money purchase plan as provided by Section 12 of this Act.*

➔Section 7. KRS 21.374 is amended to read as follows:

Notwithstanding KRS 6.500 to 6.577 and 21.345 to 21.580:

- (1) Subject to the provisions of this section, any member who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to **July 1, 2019**~~January 1, 2014~~, may **on or after July 1, 2019, but prior to January 1, 2021**,~~in lieu of the benefits he or she is currently eligible to receive under the plans,~~ elect to ***cease participating in the Legislators' Retirement Plan or the Judicial Retirement Plan and participate prospectively in the Kentucky Employees Retirement System as a nonhazardous employee for any future service as a legislator, judge, or justice and be provided the following benefits in lieu of the benefits provided by KRS 6.500 to 6.577 and 21.345 to 21.580:***
 - (a) ***Participation in the 401(a) money purchase plan provided by Section 12 of this Act. Members making an election shall not accrue service credit in the Kentucky Employees Retirement System for purposes of determining retirement benefits under the provisions of subsection (14) of Section 14 of this Act or Section 19 or 27 of this Act***~~receive the benefits and rights provided to members who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan on or after January 1, 2014, including participating in the hybrid cash balance plan created pursuant to KRS 21.402~~; **and**
 - (b) ***Any other benefits the person would be eligible for in the Kentucky Employees Retirement System based upon the election provided by this section or his or her membership date in the state-administered retirement systems.***
- (2) The election provided by this section shall be made in writing and on a form prescribed by the Judicial Form Retirement System board;

- (3) For each member who makes an election provided by this section, ~~[-~~
- ~~(a)]any service credit, **final compensation, or other benefits** the member has accrued prior to **the member's effective election date** [January 1, 2014], in the **Judicial Retirement Plan or Legislators' Retirement Plan, shall remain, but the member shall not accrue any additional service, final compensation, or any other benefits in the Judicial Retirement Plan or the Legislators' Retirement Plan on or after the effective election date** [shall be considered as service credit earned on or after January 1, 2014, for purposes of determining benefits under KRS 6.500 to 6.577 and 21.345 to 21.580;~~
 - ~~(b) On the member's effective election date, the value of the member's accumulated contributions, less any interest, shall be deposited into the member's hybrid cash balance account as provided by KRS 21.402 and considered part of the member's accumulated account balance;~~
 - ~~(c) On the member's effective election date, an employer pay credit as provided by KRS 21.402 shall be added to the member's accumulated account balance for each month the member contributed to the Legislators' Retirement Plan or the Judicial Retirement Plan prior to his or her effective election date; and~~
 - ~~(d) Interest credits as provided by KRS 21.402 shall only be applied for periods occurring on or after the member's effective election date];~~
- (4) Before accepting an election provided by this section, the Judicial Form Retirement System board shall provide the member with information detailing the potential results of the member's election;
- (5) An election made pursuant to this section shall be irrevocable; and
- (6) (a) A member of the Legislators' Retirement Plan or the Judicial Retirement Plan shall not be eligible to make an election prescribed by this section until the Judicial Form Retirement System receives a favorable private letter ruling from the Internal Revenue Service regarding this section.
- (b) If the Internal Revenue Service denies the request for a private letter ruling as provided by paragraph (a) of this subsection, this section shall be void.
- (c) The Judicial Form Retirement System may promulgate administrative regulations under KRS Chapter 13A in order to carry out this section.

➔Section 8. KRS 21.385 is amended to read as follows:

- (1) In a situation in which, by reason of federal tax law, the failure to commence the payment of retirement benefits to a vested member of the Kentucky Judicial Retirement Plan, by a specified date after the member reaches a specified age, as designated by the federal tax law, will result in the imposition of a special excise tax, the member, without retiring, shall be entitled, as of the specified date, to commence drawing from the plan the monthly benefit he would have been entitled to had he retired on that date. Notwithstanding the provisions of KRS 21.360 and 61.680, a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, may, at his option, continue to be a participating member of the plan thereafter until he retires, or, may elect to cease to be a participating member of the plan, in which latter event he shall not be required to become a participating member of the Kentucky Employees Retirement System.
- (2) A member drawing benefits from the Kentucky Judicial Retirement Plan pursuant to subsection (1) of this section who elects to continue as a participating member of the plan, or a person drawing benefits from the plan by reason of having retired, who by reason of reemployment again becomes a participating member of the plan, shall continue to draw the benefits until he retires, and accrue additional benefits, but in the calculation of the additional benefits only the years of service after he commenced drawing the initial benefits shall be counted, and the monthly additional benefit shall not exceed such amount as, when added to the initial monthly benefit, will equal the final compensation on which the additional benefit was calculated. The member's surviving spouse, if married to the member at the time of his ultimate retirement, shall be considered to be the surviving spouse with respect to both the additional and the initial benefits.
- (3) ***Notwithstanding any other provision of KRS 6.500 to 6.577 or 21.345 to 21.580 to the contrary, an individual who retires and begins drawing a retirement allowance from one (1) or more of the systems or plans administered by the Kentucky Retirement Systems, the Teachers' Retirement System, or the Judicial Form Retirement System on or after January 1, 2019, shall not be eligible to earn benefits in the Legislators' Retirement Plan or Judicial Retirement Plan for service as a judge, justice, or legislator that occurs on or after January 1, 2019.***

➔Section 9. KRS 21.402 is amended to read as follows:

- (1) A member of the Legislators' Retirement Plan or the Judicial Retirement Plan, whose participation in the Legislators' Retirement Plan or the Judicial Retirement Plan begins on or after January 1, 2014~~, or a member making an election pursuant to KRS 21.374~~, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 6.520 and 21.400. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Legislators' Retirement Plan and the Judicial Retirement Plan.
- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
 - (a) Contributions made by the member as provided by KRS 6.500 to 6.577 and 21.345 to 21.580, except for employee contributions prescribed by KRS 6.505(1)(d)2.b. and 21.360(1)(a)3.b.;
 - (b) An employer pay credit of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
 - (c) Interest credits added annually to the member's accumulated account balance as provided by this section.
- (3)
 - (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the plan.
 - (b) Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.
- (4)
 - (a) On June 30 of each fiscal year, the plan shall determine if the member contributed to the hybrid cash balance plan *or another state-administered retirement system* during the fiscal year.
 - (b) If the member contributed to the hybrid cash balance plan *or another state-administered retirement system* during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to ***eighty-five percent (85%)***~~;~~
 1. ~~Four percent (4%); plus~~
 2. ~~Seventy five percent (75%)~~ of the plan's geometric average net investment return, ***but in no case shall be less than zero percent (0%)*** ~~in excess of a four percent (4%) rate of return~~.
 - (c) If the member did not contribute to the hybrid cash balance plan *or another state-administered retirement system* during the fiscal year, ~~then no~~***then no*** interest credit ~~shall be~~ added to the member's account for that fiscal year ~~shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%)~~.
 - (d) For purposes of this subsection, "plan's geometric average net investment return":
 1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and
 2. Shall be expressed as a percentage and based upon the plan in which the member has an account.
- (5)
 - (a) Upon termination of employment, a member who has less than five (5) years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.
 - (b) Upon termination of employment, a member who has five (5) or more years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, shall receive a full refund of his or her accumulated account balance.
- (6) A member participating in the hybrid cash balance plan provided by this section may retire:
 - (a) Upon reaching normal retirement age, provided he or she has earned five (5) or more years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, or another state-administered retirement system; or

- (b) If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under the Legislators' Retirement Plan or the Judicial Retirement Plan, or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:
 - (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement plan in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
 - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 21.420(8)(b); or
 - (c) Take a refund of his or her accumulated account balance as provided by KRS 21.460.
- (8) The board of the Judicial Form Retirement System shall establish individual members' accounts for each member participating in the hybrid cash balance plan as provided by this section. The Judicial Form Retirement System may promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this section.
- (9) The provisions of this section shall not apply to members who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to January 1, 2014, ~~except for those members making an election pursuant to KRS 21.374.~~

➔Section 10. KRS 21.460 is amended to read as follows:

- (1) (a) For members who began participating in the Judicial Retirement Plan prior to January 1, 2014: If any member of the plan ceases, other than by death or by disability retirement under KRS 21.410, to hold an office qualifying him for membership in the plan established by KRS 21.350 to 21.480, without having met the requirements for vesting, he shall be refunded on demand the amount of his accumulated contributions and any service credit he had in the plan shall be nullified.
- (b) A member who begins participating in the Judicial Retirement Plan on or after January 1, 2014, may, if the member ceases to hold an office qualifying him or her for membership in the plan established by KRS 21.345 to 21.580, elect to take a refund of his or her accumulated account balance subject to the limitations provided by KRS 21.402.
- (2) The member may elect to leave his contributions in the plan, in which event the service credit he had in the plan shall be considered to be service credit for vesting purposes as provided in KRS 21.375 and for service retirement eligibility as provided in KRS 61.680(7), and, in the event he again becomes a member of the Judicial Retirement Plan, shall be counted toward his total service credit in that plan.
- (3) (a) If a person who has been refunded his accumulated contributions or accumulated account balance in accordance with subsection (1) of this section subsequently becomes a member of the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or Teachers' Retirement System, he may while holding such membership repurchase the service credit he previously had in the Judicial Retirement Plan by repaying to that plan the amount that was refunded to him with interest at six percent (6%) per annum, in which event such service credit shall have operative effect to the same limited extent as provided in subsection (2) of this section. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Judicial Retirement Plan.
- (b) ***Members or persons participating in the 401(a) money purchase plan as provided by Section 12 of this Act, shall not be eligible to purchase service under the provisions of this section.***
- (4) If a person who has been refunded his accumulated contribution or accumulated account balance in accordance with subsection (1) of this section thereafter becomes again the holder of an office qualifying him for membership in the Judicial Retirement Plan, he shall not be entitled to credit for his prior period of service unless he has previously repaid his refunded contributions in accordance with subsection (3) of this section or unless within thirty (30) days after again assuming office he repays to the plan the amount that was refunded to him with interest at six percent (6%) per annum. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Judicial Retirement Plan. ***Members or persons participating in the 401(a) money purchase plan as provided by Section 12 of this Act, shall not be eligible to purchase service under the provisions of this section.***

- (5) If the taking of a refund of contributions by a member of the Kentucky Judicial Retirement Plan, when first entitled thereto, would subject the member to a federal excise tax, by reason of the refund's being made before the member has reached an age designated by the federal taxing act, and the member has elected, pursuant to subsection (2) of this section, to defer taking a refund, so much of the contributions as would have been subject to the excise tax shall accrue interest at the rate of six percent (6%) per annum, from the date the member first could have taken a refund until the date the refund is taken or the date as of which the federal excise tax no longer would apply to a refund, whichever is sooner, the interest to be paid by the plan at the time of the refund. The provisions of this subsection shall not apply to members who begin participating in the Judicial Retirement Plan on or after January 1, 2014.

➔Section 11. KRS 21.480 is amended to read as follows:

- (1) For members who begin participating in the Judicial Retirement Plan prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members, and in further consideration of benefits received by the state through the inducement of qualified and experienced judges and commissioners to continue in service, KRS 21.350 to 21.510, except as provided in KRS 6.696, shall constitute an inviolable contract of the Commonwealth, and the rights and benefits provided therein shall, ~~except as provided in KRS 6.696,~~ not be subject to reduction or impairment by alteration, amendment or repeal, **except:**
- (a) *As provided in KRS 6.696; and*
- (b) *The General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 21.345 to 21.580 that become effective on or after July 1, 2018.*
- (2) (a) For members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 21.345 to 21.580 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 21.345 to 21.580, for members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, except the benefits specified by paragraph (b) of this subsection.
- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Judicial Retirement Plan as provided by KRS 21.345 to 21.580 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔SECTION 12. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The retirement benefit provided by this section shall be known as the 401(a) money purchase plan and shall operate as an optional benefit tier within the Kentucky Employees Retirement System or the County Employees Retirement System, as applicable, for members in a nonhazardous position.*
- (b) *A member participating in a nonhazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System whose participation in the systems begins on or after July 1, 2019, may elect within ninety (90) days of his or her membership date to receive the retirement benefits provided by this section in lieu of the hybrid cash balance retirement benefits provided under Section 19 of this Act. A member in a nonhazardous position whose participation in the Kentucky Employees Retirement System or County Employees Retirement System begins on or after January 1, 2019, but prior to July 1, 2019, may elect within ninety (90) days of July 1, 2019, to receive the benefits provided by this section in lieu of the hybrid cash balance plan retirement benefits provided under Section 19 of this Act and have his or her accumulated account balance in the hybrid cash balance plan transferred to the 401(a) money purchase plan. An election to participate in the 401(a) money purchase plan shall be irrevocable and shall apply to any future service as a nonhazardous member participating in the Kentucky Employees Retirement System or the County Employees Retirement System.*

- (c) *Any member or person who makes an election as prescribed by Section 7 shall accrue the retirement benefits provided by this section in lieu of accruing additional benefits under KRS 21.345 to 21.580, subsection (14) of Section 14 of this Act, or Section 19 or 27 of this Act.*
 - (d) *Any member who makes an election as prescribed by Section 38 of this Act shall accrue the retirement benefits provided by this section in lieu of accruing additional final compensation and retirement benefits under subsection (14) of Section 14 of this Act, subsection (14) of Section 15 of this Act, or Section 19 or 27 of this Act.*
- (2) *The 401(a) money purchase plan shall be a mandatory defined contribution plan and shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:*
 - (a) *Contributions made by the member as provided by KRS 61.510 to 61.705 and 78.510 to 78.852, except for employee contributions prescribed by KRS 61.702(2)(b);*
 - (b) *An employer contribution of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the 401(a) money purchase plan provided by this section; and*
 - (c) *Investment returns on employee and employer contributions. Investment returns on the employee and employer contributions shall be net of administrative expenses and investment fees and expenses.*
- (3)
 - (a) *Member contributions and employer contributions as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 61.675 or 78.625.*
 - (b) *Investment returns shall be determined based upon the investment program established by the board, which may include but not be limited to a program that invests in system assets or asset classes, a program that provides investment options selected or authorized by the board internally or through an external vendor, or investment options provided through an agreement with the Kentucky Employees Deferred Compensation Authority.*
- (4)
 - (a) *Upon termination of employment, a member who has less than five (5) years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), or another state-administered retirement system who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer contribution, and shall only receive a refund of his or her accumulated contributions.*
 - (b) *Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), or another state-administered retirement system who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her accumulated account balance.*
- (5) *A member participating in the 401(a) money purchase plan provided by this section may retire:*
 - (a) *At his or her normal retirement date, if he or she has earned five (5) or more years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system; or*
 - (b) *If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system; or*
 - (c) *Immediately for those members electing to participate in the 401(a) money purchase plan as described by subsection (1)(c) to (d) of this section if he or she is otherwise eligible to retire from the systems administered by Kentucky Retirement Systems.*
- (6) *A member eligible to retire under subsection (5) of this section may elect to:*
 - (a) *Receive a monthly retirement allowance payable for life by having his or her accumulated account balance in the 401(a) defined contribution plan annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;*

- (b) *Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 61.635, except for the option provided by KRS 61.635(11); or*
- (c) *Take a refund of his or her account balance as provided by KRS 61.625.*
- (7) *Members who are participating in the 401(a) defined contribution plan as described by subsection (1)(c) to (d) of this section upon retirement may:*
 - (a) *Elect to annuitize only the portion of their accumulated account balance that was accrued in the 401(a) money purchase plan; or*
 - (b) *Elect to take a refund of his or her account balance accrued solely while participating in the 401(a) money purchase plan. The provisions of this paragraph shall not prohibit a member from receiving a monthly benefit under the provisions of Section 27 of this Act for service accrued in the systems prior to participating in the 401(a) money purchase plan.*
- (8) *The provisions of this section shall not apply to members who began participating in the systems or plans administered by Kentucky Retirement Systems prior to July 1, 2019, unless the member makes an election as provided by this section or by Section 7 or 38 of this Act.*

➔Section 13. KRS 16.505 is amended to read as follows:

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

- (1) "System" means the State Police Retirement System created by KRS 16.505 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.505 to 16.652, and any other amounts the member shall have contributed, including interest credited. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (8) "Creditable compensation":
 - (a) *Except as provided by paragraph (b) or (c) of this subsection*, means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4);
 - (b) Includes:
 - 1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
 - 2. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including

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

3. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
 4. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and
- (c) Excludes:
1. **Uniform, equipment, or any other expense allowances paid on or after January 1, 2019**, living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board; and
 2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;
- (9) "Final compensation" means:
- (a) For a member who begins participating ~~prior to before~~ September 1, 2008, **who retires prior to January 1, 2019**, the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or
 - (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, **or for a member who begins participating prior to September 1, 2008, who retires on or after January 1, 2019**, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;

- (15) "Normal retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959; or
 - (b) For a member who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;
- (20) "Early retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or
 - (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits established by 26 U.S.C. sec. 415;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543;
- (34) "Month" means a calendar month;
- (35) "Membership date" means the date upon which the member began participating in the system as provided by KRS 16.543;
- (36) "Participant" means a member, as defined by subsection (21) of this section, or a retired member, as defined by subsection (11) of this section;
- (37) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (39) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583; and
- (40) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the combined sum of the member's accumulated contributions and the member's accumulated employer pay credit.

➔Section 14. KRS 61.510 is amended to read as follows:

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

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;

- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited, ***or investment returns earned as provided by Section 12 of this Act***, on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon ***or investment returns earned as provided by Section 12 of this Act***. ~~For members who begin participating on or after September 1, 2008,]~~ "Accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation":
 - (a) ***Except as provided by paragraph (b) or (c) of this subsection***, means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);
 - (b) Includes:
 - 1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
 - 2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
 - 3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-

sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;

4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
 5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and
- (c) Excludes:
1. ***Uniform, equipment, or any other expense allowances paid on or after January 1, 2019***, living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;
 2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;~~and~~
 3. ***For employees participating in a nonhazardous position who began participating prior to September 1, 2008, and who retire after July 1, 2023, lump-sum payments for compensatory time upon termination of employment; and***
 4. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer;

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

- (a) For a member who begins participating before September 1, 2008, who is ~~not~~ employed in a ~~nonhazardous~~~~hazardous~~ position~~, as provided in KRS 61.592~~, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive, ***except that for members retiring on or after January 1, 2019, the five (5) fiscal years shall be complete fiscal years.*** If the number of months of service credit during the five (5) year period is less than forty-eight (48) ***for members retiring prior to January 1, 2019, one (1) or more additional fiscal years shall be used. If a member retiring on or after January 1, 2019, does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months;***
- (b) For a member who is ~~not~~ employed in a ~~nonhazardous~~~~hazardous~~ position~~, as provided in KRS 61.592~~, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, ***and who retired prior to January 1, 2019***, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is ~~not~~ employed in a ~~nonhazardous~~~~hazardous~~ position~~, as provided in KRS 61.592~~, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain

twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or

- (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position~~+~~ as provided in KRS 61.592, ***or for a member who begins participating prior to September 1, 2008, who is employed in a hazardous position as provided in KRS 61.592, who retires on or after January 1, 2019***, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months and are nonrenewable;
 - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

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

- (b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);
- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (41) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions;~~or~~
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit; *or*
 - (c) ***For nonhazardous members who are participating in the 401(a) money purchase plan as provided by Section 12 of this Act, the combined sum of the member's accumulated contribution and the member's accumulated employer contribution in the 401(a) money purchase plan;***
- (42) "Volunteer" means an individual who:
 - (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
 - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date;~~and~~
- (43) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection;
- (44) ***"Nonhazardous position" means a position that does not meet the requirements of KRS 61.592 or has not been approved by the board as a hazardous position; and***
- (45) ***"Accumulated employer contribution" means the employer contribution deposited to the member's account and any investment returns on such amounts as provided by Section 12 of this Act.***

➔Section 15. KRS 78.510 is amended to read as follows:

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

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

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

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

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

4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
 5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and
- (c) Excludes:
1. ***Uniform, equipment, or any other expense allowances paid on or after January 1, 2019,*** living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board;
 2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time; ~~and~~
 3. Training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279; ~~and~~
 4. For employees who begin participating on or after August 1, 2016, ~~creditable compensation shall exclude~~ nominal fees paid for services as a volunteer; ***and***
 5. ***For employees who are employed in a nonhazardous position, who began participating prior to September 1, 2008, and who retire after July 1, 2023, lump-sum payments for compensatory time upon termination of employment;***

(14) "Final compensation" means:

- (a) For a member who begins participating before September 1, 2008, who is ~~not~~ employed in a ***nonhazardous***~~hazardous~~ position~~, as provided in KRS 61.592~~, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive, ***except that for members retiring on or after January 1, 2019, the five (5) fiscal years shall be complete fiscal years.*** If the number of months of service credit during the five (5) year period is less than forty-eight (48) ***for members retiring prior to January 1, 2019, one (1) or more additional fiscal years shall be used. If a member retiring on or after January 1, 2019, does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months;***
- (b) For a member who is ~~not~~ employed in a ***nonhazardous***~~hazardous~~ position~~, as provided in KRS 61.592~~, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, ***and who retired prior to January 1, 2019,*** the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1)

or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be used;

- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is ~~not~~ employed in a ~~nonhazardous~~~~[hazardous]~~ position~~, as provided in KRS 61.592~~, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
 - (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position~~, as provided in KRS 61.592~~, ***or for a member who begins participating prior to September 1, 2008, who is employed in a hazardous position as provided in KRS 61.592, who retires on or after January 1, 2019***, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
 - (16) "Retirement allowance" means the retirement payments to which a member is entitled;
 - (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
 - (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;
 - (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;
 - (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
 - (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
 - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

- (c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable;
 - (d) Probationary positions which are positions of employment with a participating employer that do not exceed twelve (12) months and that are used uniformly by the participating agency on new employees who would otherwise be eligible for participation in the system. Probationary positions shall not be renewable by the participating employer for the same employee, unless the employee has not been employed with the participating employer for a period of at least twelve (12) months; or
 - (e) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
 - (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
 - (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
 - (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
 - (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
 - (27) "Person" means a natural person;
 - (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
 - (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
 - (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
 - (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
 - (32) "Month" means a calendar month;
 - (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
 - (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
 - (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;

- (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (37) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (38) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions;~~[-or]~~
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit; *or*
 - (c) ***For nonhazardous members who are participating in the 401(a) money purchase plan as provided by Section 12 of this Act, the combined sum of the member's accumulated contributions and the member's accumulated employer contributions in the 401(a) money purchase plan;***
- (39) "Volunteer" means an individual who:
- (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
 - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date;~~[-and]~~
- (40) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection;
- (41) ***"Nonhazardous position" means a position that does not meet the requirements of KRS 61.592 or has not been approved by the board as a hazardous position; and***
- (42) ***"Accumulated employer contribution" means the employer contribution deposited to the member's account and any investment returns on such amounts as provided by Section 12 of this Act.***

➔Section 16. KRS 61.546 is amended to read as follows:

- (1) ***Except as otherwise provided by this section,*** any member of the Kentucky Employees Retirement System or the State Police Retirement System whose retirement date is July 14, 1984, or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.
- (2) (a) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the system.
- (b) The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months.
- (c) ***Except as provided by subsections (3) and (4) of this section,*** the member's sick leave balance, expressed in months, shall ***upon retirement*** be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.505 to 16.652 or 61.510 to 61.705 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.505 to 16.652 or 61.510 to 61.705~~[-except as provided by subsection (3) of this section: Accumulated sick leave in excess of six (6) months shall be added to the member's service credit, and the last participating Kentucky Employees Retirement Systems employer shall pay to the retirement system the value of the additional service credit based on the formula adopted by the board, except as provided by subsection (3) of this section. All of a state policeman's sick leave balance, expressed in months, except as provided by subsection (3) of this section, shall be added to his service credit for the purposes of determining his annual retirement allowance and whether the member is eligible to receive a retirement allowance under KRS 16.505 to 16.652].~~

- (3) For a member who begins participating in the Kentucky Employees Retirement System or the State Police Retirement System on or after September 1, 2008:
- (a) The member shall receive no more than twelve (12) months of service credit upon retirement for accumulated unused sick leave accrued while contributing to the retirement system or systems from which the retirement benefit is to be paid;
 - (b) The service credited for accumulated unused sick leave *as limited by this section* and added to the member's service credit shall be used for purposes of determining the member's annual retirement allowance under KRS 16.505 to 16.652 and 61.510 to 61.705; *and*
 - (c) The service credited for accumulated unused sick leave and added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under any of the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 *or to reduce any applicable actuarial reductions*; ~~and~~
 - ~~(d) Except as provided by subsection (4) of this section, the value of any accumulated unused sick leave in excess of six (6) months that is added to the member's service credit in the Kentucky Employees Retirement System shall be paid to the retirement system by the last participating Kentucky Employees Retirement System employer based upon the formula adopted by the board.~~
- (4) *For a member who began participating in the Kentucky Employees Retirement System or the State Police Retirement System prior to September 1, 2008, who retires on or after July 1, 2023, the service credited for accumulated unused sick leave and added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under any of the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 or to reduce any applicable actuarial reductions.*
- (5) Notwithstanding any other provision of this section to the contrary, the value of any accumulated sick leave that is added to the member's service credit in the Kentucky Employees Retirement System or the State Police Retirement System on or after July 1, 2010, shall be paid to the retirement system by the last participating Kentucky Employees Retirement System or State Police Retirement System employer based upon a formula adopted by the board.
- ~~(6)(5)~~ The provisions of this section shall not apply to a participating agency whose employees are not employed by the Commonwealth until the agency certifies to the system that a sick leave program has been formally adopted and is universally administered within the agency, *except that any agency participating in the Kentucky Employees Retirement System who has not adopted a sick leave program prior to August 1, 2018, shall not be eligible to adopt a sick leave program under this section.*
- ~~(7)(6)~~ This section shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.

➔Section 17. KRS 78.616 is amended to read as follows:

- (1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee.
- (2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees participating under this section. *Any employer in the County Employees Retirement System who has not elected to participate in a sick leave program established by this section prior to August 1, 2018, shall not be eligible to elect to participate in a sick leave program established by this section.*
- (3) (a) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852, except as provided by ~~paragraphs (d) and (e)~~ *paragraph (d) and (e)* of this subsection. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member or employer pays to the retirement system the value of the additional service credit based on

the formula adopted by the board, subject to the restrictions provided by paragraph (d) of this subsection.

- (b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.
- (c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.
- (d) For a member who begins participating in the retirement system on or after September 1, 2008, but prior to January 1, 2014, whose employer has established a sick-leave program under subsections (1) to (4) and (6) of this section:
 - 1. The member shall receive no more than twelve (12) months of service credit upon retirement for accumulated unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid;
 - 2. The service added to the member's service credit shall be used for purposes of determining the member's annual retirement allowance under KRS 78.510 to 78.852;
 - 3. The service added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852 **or to reduce any applicable actuarial reductions**; and
 - 4. The cost of the service provided by this paragraph shall be paid by the employer.
- (e) ***For members who began participating in the retirement system prior to September 1, 2008, who retire on or after July 1, 2023, any service added for accumulated sick leave to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852 or to reduce any applicable actuarial reductions.***
- (4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill each employer with whom the employee accrued sick leave accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.
- (5)
 - (a) As an alternative to subsections (1), (3), (4), and (6) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees, or administered to a majority of eligible employees in accordance with subsection (6) of this section, shall, at the time of termination, or as **authorized by [provided in]** KRS 161.155 in the case of school boards, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow.
 - (b) The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the employee's final compensation if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment.
 - (c) The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation. For an employee who begins participating on or after September 1, 2008, but prior to January 1, 2014, the number of months added to the employee's total service credit under this paragraph shall not exceed twelve (12) months, and the additional service shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852 **or to reduce any applicable actuarial reductions**.
 - (d) ***For members who began participating in the retirement system prior to September 1, 2008, who retire on or after July 1, 2023, any service added for accumulated sick leave to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852 or to reduce any applicable actuarial reductions.***

- (6) Any city of the first class that has two (2) or more sick-leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick-leave program administered to a majority of the eligible employees of the city. An employee participating in a sick-leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under this subsection when the employee commences participating in the sick-leave program that is administered to a majority of the eligible employees of the city.
- (7) The provisions of this section shall not apply to employees who begin participating in the system on or after January 1, 2014, and no service credit shall be provided for accumulated sick leave balances of those employees who begin participating in the system on or after January 1, 2014.

➔Section 18. KRS 61.565 is amended to read as follows:

- (1) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652, ~~each employer participating in~~ the County Employees Retirement System as provided for in KRS 78.510 to 78.852, and ~~each employer participating in~~ the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute annually to the respective retirement system an amount ***determined by the actuarial valuation completed in accordance with KRS 61.670 and as specified by this section. Employer contributions for each respective retirement system shall be*** equal to the ~~sum of~~ percent, ~~as computed under subsection (2) of this section, of the creditable compensation of its employees to be known as~~ the "normal ***cost contribution***" ~~contributions,~~" and ~~an additional amount to be known as~~ the "actuarially accrued liability contribution."
- (b) ***For purposes of this section, the normal cost contribution shall be computed as a percentage of pay and shall be an annual amount that is sufficient when combined with employee contributions to fund benefits earned during the year in the respective system or plan, including costs for those members who elect to participate in the 401(a) money purchase plan. The amount shall be paid as a percentage of creditable compensation reported for each employee participating in the system or plan and accruing benefits.***
- (c) ***For purposes of this section, the actuarially accrued liability contribution*** ~~which~~ ***shall be an annual dollar amount that is sufficient to amortize*** ~~computed by amortizing~~ the total unfunded actuarially accrued liability ***of each system*** over a ***closed*** period of thirty (30) years using the ***level-dollar*** ~~level-percentage-of-payroll~~ amortization method. This method shall be used beginning with the ~~2019~~***2007*** actuarial valuation, ***and employer costs for the actuarially accrued liability contribution shall be prorated to each employer as provided by paragraph (f) of this subsection*** ~~The initial thirty (30) year amortization period shall begin with the 2007 actuarial valuation, except as provided by paragraph (b) of this subsection.~~
- (d) ***The employer contributions computed under this section shall be determined using:***
1. ***The entry age normal cost funding method;***
 2. ***An asset smoothing method that smooths investment gains and losses over a five (5) year period; and***
 3. ***Other funding methods and assumptions established by the board in accordance with KRS 61.670.***
- ~~(e)(b)~~ Effective with the ~~2019~~***2013*** actuarial valuation, the amortization period for the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System shall be reset to a new thirty (30) year ***closed*** period for purposes of calculating the actuarially accrued liability contribution prescribed by this subsection.
- (f) ***The dollar value of the actuarially accrued liability contribution specified by paragraph (c) of this subsection payable by each individual system employer based upon the 2019 actuarial valuation shall be prorated based upon the individual employer's average percentage of the total creditable compensation reported by all employers in the specific system in fiscal years 2014-2015, 2015-2016, and 2016-2017, except that the amount shall:***
1. ***Not apply to any employer who ceases participation and pays the full actuarial cost of ceasing participation as provided by KRS 61.522;***

2. *Be adjusted for each remaining employer of a system to reflect any employer who ceases participation and who pays the full actuarial cost of ceasing participation as provided by KRS 61.522; and*
3. *Be a single amount for all executive branch departments, program cabinets and their respective departments and administrative bodies enumerated in KRS 12.020, and any other executive branch agencies administratively attached to a department, program cabinet, or administrative body enumerated in KRS 12.020.*

~~[(c) Any significant increase in the actuarially accrued liability due to benefit improvements after the 2007 valuation shall be amortized using the level percentage of payroll amortization method over a separate thirty (30) year period commencing in the year of the actuarial valuation in which the benefit improvements are first reflected.]~~

- (2) ~~[The normal contribution rate shall be determined by the entry age normal cost funding method. The actuarially accrued liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the actuarially accrued liability contribution shall be determined on actuarial bases adopted by the board.]~~

- ~~(3)~~ (a) Normal *cost* contribution *rates* and the actuarially accrued liability contribution ~~[rates]~~ shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium.

- (b) The board may amend contribution rates as of July 1 of the second year of a biennium ~~[for the County Employees Retirement System]~~, if it is determined on the basis of a subsequent actuarial valuation that amended contribution rates are necessary to satisfy the requirements of ~~[subsections (1) and (2) of]~~ this section.

- (c) Effective for employer contribution rates payable on or after July 1, 2014, **through June 30, 2020**, the board shall not have the authority to amend contribution rates as of July 1 of the second year of the biennium for the Kentucky Employees Retirement System and the State Police Retirement System.

- ~~(3)~~ (4) The system shall advise each employer prior to the beginning of each biennium, or prior to July 1 of the second year of a biennium for employers participating in the County Employees Retirement System, of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under ~~[subsections (1) to (3) of]~~ this section.

- ~~(4)~~ (5) The General Assembly shall pay the full actuarially required contribution rate, as prescribed by this section, to the Kentucky Employees Retirement System and the State Police Retirement System in fiscal years occurring on or after July 1, 2014.

- ~~(5)~~ (6) Notwithstanding any other provision of KRS Chapter 61 to the contrary, the board shall establish employer contribution rates for the County Employees Retirement System that will phase in to the full actuarially required contribution for the health insurance fund over a ten (10) year period using the 2007-2008 fiscal year employer contribution for the health insurance fund as a base employer rate and incrementally increasing the employer rate from fiscal year 2008-2009 through fiscal year 2017-2018.

➔Section 19. KRS 61.597 is amended to read as follows:

- (1) A member of the Kentucky Employees Retirement System or County Employees Retirement System who is ~~[not]~~ participating in a **nonhazardous** ~~[hazardous duty]~~ position ~~[as provided by KRS 61.592]~~, whose participation in the systems begins on or after January 1, 2014, **except for those members** ~~[for a member]~~ making an election pursuant to KRS 61.5955 **or Section 12 of this Act**, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 61.559 and 61.595. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Kentucky Employees Retirement System and the County Employees Retirement System.
- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
 - (a) Contributions made by the member as provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except for employee contributions prescribed by KRS 61.702(2)(b);

- (b) An employer pay credit of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
- (c) Interest credits added annually to the member's accumulated account balance as provided by this section.
- (3) (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 61.675 and 78.625.
- (b) Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.
- (4) (a) On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan *or another state-administered retirement system* during the fiscal year.
- (b) If the member contributed to the hybrid cash balance plan *or another state-administered retirement system* during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to *eighty-five percent (85%)*; ~~1. — Four percent (4%); plus~~
~~2. — seventy five percent (75%)~~ of the system's geometric average net investment return, *but in no case shall be less than zero percent (0%)* ~~[in excess of a four percent (4%) rate of return]~~.
- (c) If the member did not contribute to the hybrid cash balance plan *or another state-administered retirement system* during the fiscal year, *then no* ~~[the]~~ interest credit *shall be* added to the member's account for that fiscal year ~~shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%)~~.
- (d) For purposes of this subsection, "system's geometric average net investment return":
 - 1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last *ten (10)* ~~[five (5)]~~ fiscal years as of the date the interest is credited to the member's account; and
 - 2. Shall be expressed as a percentage and based upon the system in which the member has an account.
- (e) No employer pay credits or interest credits shall be provided to a member who has taken a refund of contributions as provided by KRS 61.625 or who has retired and annuitized his or her accumulated account balance as prescribed by this section.
- (5) (a) Upon termination of employment, a member who has less than five (5) years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.
- (b) Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her accumulated account balance.
- (6) A member participating in the hybrid cash balance plan provided by this section may retire:
 - (a) At his or her normal retirement date, provided he or she has earned five (5) or more years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system; or
 - (b) If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:

- (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
 - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 61.635, except for the option provided by KRS 61.635(11); or
 - (c) Take a refund of his or her account balance as provided by KRS 61.625.
- (8) The provisions of this section shall not apply to members who began participating in the Kentucky Employees Retirement System or the County Employees Retirement System prior to January 1, 2014, ~~except for those members making an election pursuant to KRS 61.5955.~~

➔Section 20. KRS 61.575 is amended to read as follows:

- (1) The members' account shall be the account to which:
- (a) All members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances *or investment returns* as provided in KRS 61.510 to 61.692 shall be credited, except as provided by KRS 61.702(2)(b); ~~and~~
 - (b) For members who begin participating in the system on or after January 1, 2014, *who are participating in the hybrid cash balance plan*, the employer pay credit and interest credited on such amounts as provided by KRS 16.583 and 61.597 shall be credited; *and*
 - (c) *For members who elect to participate in the 401(a) money purchase plan as provided by Section 7, 12, or 38 of this Act, the employer contribution and investment return on such amounts as provided by Section 12 of this Act.*

Only funds from this account shall be used to return the accumulated contributions or accumulated account balances of a member when required by reason of any provision of KRS 61.510 to 61.705. Prior to the member's retirement, death, or refund in accordance with KRS 61.625, no funds shall be made available from the member account.

- (2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member, except as provided by KRS 61.702(2)(b).
- (3) *Except for the portion of the member's account balance in the 401(a) money purchase plan as provided by Section 12 of this Act:*
 - (a) Each member shall have his individual account credited with interest on June 30 of each fiscal year.
 - (b) For a member who begins participating before September 1, 2008, interest shall be credited to his individual account at a rate determined by the board but not less than two percent (2%) per annum on the accumulated account balance of the member on June 30 of the preceding fiscal year.
 - (c) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, interest shall be credited to his individual account at a rate of two and one-half percent (2.5%) per annum on the accumulated account balance of the member on June 30 of the preceding fiscal year.
 - (d) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan, interest shall be credited in accordance with KRS 16.583 and 61.597.
 - (e) The amounts of interest credited to a member's account under this subsection shall be transferred from the retirement allowance account.
- (4)
 - (a) Upon the retirement of a member who began participating in the system prior to January 1, 2014, his or her accumulated account balance shall be transferred from the members' account to the retirement allowance account.
 - (b) Upon the retirement of a member who began participating in the system on or after January 1, 2014, *or who elects to participate in the 401(a) money purchase plan*, who elects to annuitize his or her accumulated account balance *in the hybrid cash balance plan or 401(a) money purchase plan* as prescribed by KRS 16.583(7)(a) or (b), ~~or 61.597(7)(a) or (b), or subsection (6)(a) or (b) of Section 12 of this Act~~, the member's accumulated account balance shall be transferred to the retirement allowance account.

➔Section 21. KRS 78.640 is amended to read as follows:

- (1) The members' account shall be the account to which:
 - (a) All members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances **or investment returns** as provided in KRS 78.510 to 78.852 shall be credited, except as provided by KRS 61.702(2)(b);~~and~~
 - (b) For members who begin participating in the system on or after January 1, 2014, **who are participating in the hybrid cash balance plan**, the employer pay credit and interest credited on such amounts as provided by KRS 16.583 and 61.597 shall be credited; **and**
 - (c) **For members who elect to participate in the 401(a) money purchase plan provided by Section 7, 12, or 38 of this Act, the employer contribution and investment return on such amounts as provided by Section 12 of this Act.**

Only funds from this account shall be used to return the accumulated contributions or accumulated account balances of a member when required to be returned to him by reason of any provision of KRS 78.510 to 78.852. Prior to the member's retirement, death, or refund in accordance with KRS 61.625, no funds shall be made available from the member account.

- (2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member, except as provided by KRS 61.702(2)(b).
- (3) **Except for the portion of the member's account balance in the 401(a) money purchase plan as provided by Section 12 of this Act:**
 - (a) Each member shall have his individual account credited with interest on June 30 of each year.
 - (b) For a member who begins participating before September 1, 2008, interest shall be credited to his individual account at a rate determined by the board but not less than two percent (2%) per annum on the accumulated account balance of the member on June 30 of the preceding fiscal year.
 - (c) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, interest shall be credited to his or her individual account at a rate of two and one-half percent (2.5%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year.
 - (d) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan, interest shall be credited in accordance with KRS 16.583 and 61.597.
 - (e) The amounts of interest credited to a member's account under this subsection shall be transferred from the retirement allowance account.
- (4)
 - (a) Upon the retirement of a member who began participating in the system prior to January 1, 2014, his accumulated account balance shall be transferred from the members' account to the retirement allowance account.
 - (b) Upon the retirement of a member who began participating in the system on or after January 1, 2014, **or who elects to participate in the 401(a) money purchase plan**, who elects to annuitize his or her accumulated account balance **in the hybrid cash balance plan or 401(a) money purchase plan** as prescribed by KRS 16.583(7)(a) or (b), ~~for~~ 61.597(7)(a) or (b), **or subsection (6)(a) or (b) of Section 12 of this Act**, the member's accumulated account balance shall be transferred to the retirement allowance account.

➔Section 22. KRS 61.580 is amended to read as follows:

The retirement allowance account shall be the account in which shall be accumulated all employer contributions and amounts transferred from the members' account, and to which all income from the invested assets of the system shall be credited. From this account shall be paid the expenses of the system and the board incurred in administration of the system, retirement allowances, and any other benefits payable after a member's retirement and from this account shall be transferred to the members' account:

- (1) The employer pay credit added monthly to each member's individual accounts as provided by KRS 16.583 and 61.597;~~and~~
- (2) **The employer contribution for the 401(a) money purchase plan as provided by Section 12 of this Act; and**
- (3) The interest credited annually to ~~a~~**each** member's individual account as provided by KRS 61.510 to 61.705.

➔Section 23. KRS 78.650 is amended to read as follows:

The retirement allowance account shall be the account in which shall be accumulated all employer contributions and amounts transferred from the members' account, and to which all income from the invested assets of the system shall be credited. From this account shall be paid the expenses of the system and the board in administration of the system, retirement allowances, and any other benefits payable after a member's retirement and from this account shall be transferred to the members' account:

- (1) The employer pay credit added monthly to each member's individual accounts as provided by KRS 16.583 and 61.597;~~and~~
- (2) ***The employer contribution for the 401(a) money purchase plan as provided by Section 12 of this Act; and***
- (3) The interest credited annually to ~~a~~**each** member's individual account as provided by KRS 78.510 to 78.852.

➔Section 24. KRS 16.601 is amended to read as follows:

- (1) If ~~the death of~~ a member ~~dies in service occurs on or after August 1, 1992,~~ as a direct result of an ~~act in line of duty~~ ***as defined in subsection (19) of Section 13 of this Act and is survived by a spouse;***~~and the member has on file in the retirement office at the time of his or her death a written designation of only one (1) beneficiary, who is his or her spouse, the beneficiary~~
 - (a) ***The surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased member's retirement account; and***
 - (b) ***The surviving spouse*** may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death.
- (2) If ~~the death of~~ a member ~~dies in service occurs on or after July 1, 1968,~~ as a direct result of an ~~act in line of duty~~ ***as defined in subsection (19) of Section 13 of this Act*** and the member has on file in the retirement office at the time of his or her death a written designation of only one (1) beneficiary other than his or her spouse ***who has not been superseded by the surviving spouse as provided by subsection (1)(a) of this section and*** ~~who is a dependent receiving at least one-half (1/2) of his or her support from the deceased member, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars (\$10,000).~~
- (3) In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due. The payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the system. Benefits shall be payable under this subsection notwithstanding an election by a ***surviving spouse or*** beneficiary to withdraw the deceased member's accumulated account balance as provided in KRS 61.625 or benefits under any other provisions of KRS 16.510 to 16.652.
- (4) A ***surviving spouse or*** beneficiary eligible for benefits under subsection (1) or (2) of this section who is also eligible for benefits under any other provisions of KRS 16.510 to 16.652 may elect benefits under this section or any other section of KRS 16.510 to 16.652 but cannot elect to receive both.
- (5)
 - (a) A ***surviving spouse or*** beneficiary applying for benefits under subsection (1) or (2) of this section who is also eligible for benefits under KRS 16.578 may elect to receive benefits under KRS 16.578(2)(a) or (b) while the application for benefits under subsection (1) or (2) of this section is pending.
 - (b) If a final determination results in a finding of eligibility for benefits under subsection (1) or (2) of this section, the system shall recalculate the benefits due the ***surviving spouse or*** beneficiary in accordance with this subsection.
 - (c) If the ***surviving spouse or*** beneficiary has been paid less than the amount of benefits to which the beneficiary was entitled to receive under this section, the system shall pay the additional funds due to the ***surviving spouse or*** beneficiary.
 - (d) If the ***surviving spouse or*** beneficiary has been paid more than the amount of benefits to which the ***surviving spouse or*** beneficiary was entitled to receive under this section, the system shall deduct the amount overpaid to the ***surviving spouse or*** beneficiary from the ten thousand dollars (\$10,000) lump-

sum payment and from the monthly retirement allowance payments until the amount owed to the systems has been recovered.

➔Section 25. KRS 61.552 is amended to read as follows:

- (1) (a) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated account balance under the provisions of KRS 16.645(21), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system.
- (b) Service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least six (6) months of service credit in a state-administered retirement system, excluding the service purchased under this subsection. If the member does not accrue at least six (6) months of service credit in a state-administered retirement system, excluding service purchased under this subsection, then the payment plus interest as provided in KRS 61.575 shall be refunded upon retirement, death, or written request following termination of employment. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582, 61.600, or 61.621.
- (c) Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the system. ***Members participating in the 401(a) money purchase plan as provided by Section 12 of this Act shall not be eligible to purchase service under this subsection.***
- (2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may purchase service credit in the County Employees Retirement System for the service he would have received had he elected membership.
- (3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may purchase service credit in the Kentucky Employees Retirement System for the service he would have received had he elected membership.
- (4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may purchase service credit in the Kentucky Employees Retirement System for service between July 1, 1956, and the effective date of participation of his department.
- (5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may purchase service credit in the County Employees Retirement System for service between July 1, 1958, and the effective date of participation of his county.
- (b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.
- (6) The member shall not receive service credit for the same period of time in which the member has service credit in one (1) of the systems administered by Kentucky Retirement Systems or another public defined benefit retirement fund.

- (7) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a nonteaching position which would have qualified as a regular full-time position had the university been a participating department, and who did not participate in a defined benefit retirement program at the university, may purchase service credit in any of the systems administered by Kentucky Retirement Systems in which the employee is a member for the service he would have received had his period of university employment been covered by the County Employees Retirement System, Kentucky Employees Retirement System, or State Police Retirement System.
- (8) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2).
- (b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2).
- (c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period.
- (d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640.
- (e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.
- (9) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 prior to June 19, 1976, shall be credited to the individual member's account in the appropriate retirement system and considered as accumulated contributions of the member.
- (10) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960.
- (11) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for interim, seasonal, emergency, temporary, probationary, or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) or more hours of work.
- (b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit in the County Employees Retirement System for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed

to purchase service credit only for those months he received creditable compensation for eighty (80) or more hours of work.

- (12) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System. The employee may also purchase service credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.
- (13) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for any period of authorized maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of authorized sick leave without pay.
- (14) (a) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, or as otherwise required by 38 U.S.C. ch. 43, by:
 1. Making a lump-sum payment on a before-tax basis as provided in subparagraph 3. of this paragraph, or on an after-tax basis if the employee is purchasing service credit under subsection (1) or (20) of this section, service available pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this section, or grandfathered service as defined in paragraph (b) of this subsection;
 2. Entering into an agreement to purchase service credit through an installment purchase of service agreement with the systems as provided by paragraph (c) of this subsection:
 - a. On a before-tax basis in which the service is purchased pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2); or
 - b. On an after-tax basis if the employee is purchasing service credit under subsection (1) or (20) of this section, service available pursuant to 38 U.S.C. ch. 43 not otherwise provided for in this section, or grandfathered service as defined in paragraph (b) of this subsection; or
 3. Transferring funds to the systems through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder, or through a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. secs. 402(c) and 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder.
- (b) For purposes of this subsection, "grandfathered service" means service purchases for which a member, whose membership date in the system is prior to July 1, 1999, is eligible to purchase under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, that were available for all members of the system to purchase on August 5, 1997.
- (c)
 1. For service purchased under a before-tax or after-tax installment purchase of service agreement as provided by paragraph (a)2. of this subsection, the cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal, except that interest compounded annually at the actuarial rate in effect at the time the member elects to make the purchase shall be added for the period that the installments are to be made.
 2. Multiple service purchases may be combined under a single installment agreement, except that no employee may make more than one (1) installment purchase at the same time.
 3. For after-tax installment purchase of service agreements, the employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase

recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal or a portion of the remaining principal.

4. Before-tax installment purchase of service agreements shall be irrevocable, and the employee shall not be able to stop installment payments or to pay off the remaining balance of the purchase of service agreement, except upon termination of employment or death.
 5. One (1) year of installment payments shall be made for each one thousand dollars (\$1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.
 6. The employee shall pay the installments by payroll deduction for after-tax purchase of service agreements, and the employer shall pick up installments for before-tax purchase of service agreements. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board.
 7. The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.
 8. If the employee utilizing an installment purchase of service agreement dies, retires, does not continue employment in a position required to participate in the retirement system, or elects to stop an after-tax installment purchase of service agreement, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal or a portion of the remaining principal of the installment purchase of service agreement by lump sum, subject to the restrictions of paragraph (a)1. of this subsection, or by transfer of funds under paragraph (a)3. of this subsection, except that payment by the member shall be filed with the system prior to the member's effective retirement date. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased, except as provided by subsection (22) of this section.
 9. If the employer does not report installment payments on an employee for sixty (60) days for an after-tax installment purchase of service agreement, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.
 10. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.
 11. If payments have ceased under subparagraph 8. or 9. of this paragraph and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments, subject to the restrictions of this subsection. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection.
- (d) Except as provided by paragraph (a)2.a. of this subsection, the cost of purchasing service shall not be picked up, as described in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer.
 - (e) The cost of purchasing service credit under any provision of this section, except as provided by subsections (1) and (20) of this section, shall be determined by the delayed contribution method as provided by KRS 61.5525.
 - (f) Member payments, including interest, properly received pursuant to this subsection shall be deposited to the member's account and considered as accumulated contributions of the individual member.
- (15) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service

credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase service credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

- (16) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase service credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.
- (17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.1-720, may purchase service credit for the time served in the corps.
- (18) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community services program for mental health and individuals with an intellectual disability, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may purchase service credit for the period of his service in the regional community program for mental health and individuals with an intellectual disability.
- (19) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System.
- (20)
 - (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions and any interest or penalties on the delinquent employer contributions are received by the retirement system.
 - (b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions and any interest or penalties on the delinquent employer contributions are received by the retirement system.
 - (c) Service purchased under this subsection by employees who begin participating on or after September 1, 2008, shall be considered service credited under KRS 16.543(1), 61.543(1), or 78.615(1) for purposes of determining eligibility for retirement benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.
 - (d) Employees who begin participating on or after January 1, 2014, in the hybrid cash balance plan provided by KRS 16.583 and 61.597 shall, upon payment of the employee and employer contributions due under this subsection, have their accumulated account balance increased by the employee contributions, employer pay credits, and interest credits that would have been credited to their member's account if the contributions had been paid on time.

- (e) *An employee participating in the 401(a) money purchase plan as provided by Section 12 of this Act shall, upon payment of the employee and employer contributions due under this subsection, have his or her accumulated account balance increased by the employee contributions and employer contributions that would have been credited to his or her member account if the contributions had been paid on time.*
- ~~(f)(e)~~ Employer contributions payable under this subsection shall be considered delinquent and the employer shall be required to pay interest and any other penalties on the delinquent contributions in accordance with KRS 61.675(3)(b) and 78.625(2)(a) from the date the employee should have been reported and received service credit in accordance with KRS 16.543, 61.543, and 78.615.
- (21) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county.
- (22) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. The purchase shall be made in any of the systems administered by Kentucky Retirement Systems in which the employee is a member. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.
- (23) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system.
- (24) An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1). Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:
- (a) The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;
 - (b) The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and
 - (c) The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems.
- (25) An employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for the service in a regular full-time position otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System for

service in the United States government, other than service in the Armed Forces, for which service is not otherwise given.

- (26) An employee participating in a hazardous position in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for service in a regular full-time position in an urban-county government that would qualify for hazardous duty coverage under KRS 61.592.
- (27) Subsections (2) to (5), (7) to (13), (15) to (19), and (21) to (26) of this section shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, ***or to members who make an election as provided by Section 7, 12, or 38 of this Act.***
- (28) Service purchases made pursuant to subsections (2) to (5), (7), (10) to (13), (15) to (19), (21) to (23), (25), and (26) of this section shall be purchased by the entire amount of service available pursuant to that subsection or by increments. Service purchases made pursuant to subsections (1), (20), and (24) of this section shall be purchased by the entire amount of service available.

➔Section 26. KRS 61.555 is amended to read as follows:

- (1) (a) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, who joins the Armed Forces within three (3) months of the last day of paid employment, being on leave of absence from service and not withdrawing his accumulated account balance, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if:
 - 1. The member's military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304; and
 - 2. The member returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.
- (b) A member eligible for the benefit prescribed by this subsection who participates in the hybrid cash balance plan as provided by KRS 16.583 and 61.597 shall also have his or her member account credited with employee contributions, employer pay credits, and interest credits, as provided by KRS 16.583 and 61.597, as though the member were employed during the member's period of active military duty described by this subsection.
- (c) ***A member eligible for the benefit prescribed by this subsection who participates in the 401(a) money purchase plan as provided by Section 12 of this Act shall also have his or her member account credited with employee and employer contributions, as provided by Section 12 of this Act, as though the member were employed during the member's period of active military duty described by this subsection.***
- (d) The employer shall remit to the retirement systems the employer contributions that would have been due under KRS 61.565 and 61.702 for periods of service credited under this subsection.
- (2) (a) After August 1, 1998, any employee who, prior to the date he first participated in the system, terminated his employment with an agency participating in one (1) of the systems administered by the Kentucky Retirement Systems and within three (3) months entered the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces, not to exceed six (6) years if his military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304.
- (b) A member eligible for the benefit prescribed by this subsection who participates in the hybrid cash balance plan as provided by KRS 16.583 and 61.597 shall also have his or her member account credited with employee contributions, employer pay credits, and interest credits, as provided by KRS 16.583 and

61.597, as though the member were employed during the member's period of active military duty described by this subsection.

- (c) ***A member eligible for the benefit prescribed by this subsection who participates in the 401(a) money purchase plan as provided by Section 12 of this Act shall also have his or her member account credited with employee and employer contributions, as provided by Section 12 of this Act, as though the member were employed during the member's period of active military duty described by this subsection.***
- (d) The employer shall remit to the retirement systems the employer contributions that would have been due under KRS 61.565 and 61.702 for periods of service credited under this subsection.
- (3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.
- (4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304 and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.
- (5) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.
- (6) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service shall receive current service for his period of active military duty in the Armed Forces of the United States, if his military service was terminated in a manner other than as described in 38 U.S.C. sec. 4304 and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment in accordance with the payment options and restrictions established by KRS 61.552(14). Service purchases made pursuant to this subsection shall be purchased by the entire amount of service available pursuant to this subsection or by increments.
- (7) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment in accordance with the payment options and restrictions established by KRS 61.552(14). The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Service purchases made pursuant to this subsection shall be purchased by the entire amount of service available pursuant to this subsection or by increments.
- (8) For members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, in the hybrid cash balance plan prescribed by KRS 16.583 and 61.597, ***and for members who make an election to participate in the 401(a) money purchase plan as provided by Section 7, 12, or 38 of this Act***, the provisions of subsections (4) to (7) of this section shall not apply.

➔Section 27. KRS 61.595 is amended to read as follows:

Except as limited by Section 12 or 38 of this Act:

- (1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:
 - (a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one (1) of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one (1) of the state-administered retirement systems and who was participating in one (1) of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;
 - (b) For a member of the County Employees Retirement System whose participation begins on or after August 1, 2004, the annual retirement allowance upon retirement at normal retirement date or later shall be equal to two percent (2%) of final compensation multiplied by the number of years of service credit and shall be payable monthly during his lifetime;
 - (c) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars (\$240) multiplied by the number of years of service as a member of the General Assembly;
 - (d) For a member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating on or after September 1, 2008, the annual retirement allowance upon retirement shall be equal to:
 1. a. One and one-tenth percent (1.1%) of final compensation for each year of service if the member has earned ten (10) or less years of service at retirement;
 - b. One and three-tenths percent (1.3%) of final compensation for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
 - c. One and one-half percent (1.5%) of final compensation for each year of service if the member has earned greater than twenty (20) but no more than twenty-six (26) years of service at retirement; or
 - d. One and three-quarters percent (1.75%) of final compensation for each year of service if the member has earned greater than twenty-six (26) but no more than thirty (30) years of service at retirement; and
 2. Two percent (2.0%) of final compensation for each year of service earned in excess of thirty (30) years of service at retirement;
- (e) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;
- (f) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars (\$240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement

System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication; and

- (g) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars (\$512).
- (2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced at an amount determined by the board's actuary to reflect the earlier commencement of benefits.
- (b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating before September 1, 2008, who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who begins participating before September 1, 2008, who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).
- (c) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating on or after September 1, 2008, may retire with no reduction in benefits if the member is fifty-seven (57) years of age or older and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for an unreduced retirement allowance under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (3) Subsections (1) and (2) of this section shall not apply to members who begin participating in the system on or after January 1, 2014. Members who begin participating in the system on or after January 1, 2014, shall receive the retirement benefits prescribed by KRS 61.597 *or Section 12 of this Act, as applicable*.

➔Section 28. KRS 61.637 is amended to read as follows:

- (1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.
- (2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.
- (3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.
- (4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

- (b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.
- (c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
 - 1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;
 - 2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
 - 3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;
 - 4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691; and
 - 5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.
- (5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).
- (6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.
- (b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.
- (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.
- (b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.
- (8) A retired member or his employer shall notify the retirement system if he has accepted employment or is serving as a volunteer with an employer that participates in the retirement system from which the member

retired. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.

- (9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.
- (10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.
- (11)
 - (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.
 - (b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.
- (12)
 - (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.
 - (b) The job descriptions and statements of duties shall be filed with the retirement office.
- (13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:
 - (a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;
 - (b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began;
 - (c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691;
 - (d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and
 - (e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.
- (14)
 - (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.
 - (b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.
- (15)
 - (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age,

the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

- (b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.
- (16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to purchase prior to his initial retirement.
- (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members *who retired prior to January 1, 2019, and* who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:
- (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
 - 1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
 - 2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
 - (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
 - 1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;
 - 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
 - 3. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
 - 4. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1,

2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;

- (c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
 - 1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
 - 2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
 - 1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;
 - 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
 - 3. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
 - 4. Except as provided by KRS 70.291 to 70.293 and 95.022, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;
- (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:
 - 1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;

2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;
3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and
4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service; and

- (f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:
 1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or
 2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body.

(18) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (17) of this section, the following shall apply to retired members, retirees, or annuitants of the systems or plans administered by the Kentucky Retirement Systems, the Judicial Form Retirement System, and the Teachers' Retirement System, who retire and begin drawing a retirement allowance on or after January 1, 2019, and are reemployed on or after January 1, 2019, by an agency participating in the systems administered by the Kentucky Retirement Systems:

- (a) **Except as provided by paragraphs (c) and (d) of this subsection, if a retired member is receiving a retirement allowance from the systems administered by the Kentucky Retirement Systems and is reemployed in any position with an agency participating in any of the systems administered by the Kentucky Retirement Systems, regardless of whether or not the position is considered regular full-time under KRS 61.510(21), 78.510(21), or paragraph (g) of this subsection, within a three (3) month period following the member's initial retirement date from the systems, the member's retirement shall be voided and the member shall repay to the system all benefits received, including any health insurance benefits. If the member's retirement is voided as provided by this paragraph and the member has returned to work in a position that is considered a regular full-time position in the systems administered by Kentucky Retirement Systems as defined in KRS 61.510(21) or 78.510(21), as applicable:**
 1. **The member shall contribute to a member account established for him or her in one (1) of the systems administered by the Kentucky Retirement Systems and employer contributions shall be paid on behalf of the member by the participating employer; and**
 2. **Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service, accumulated account balance, and creditable compensation, including any additional service, creditable compensation, or accumulated account balance earned after his or her initial retirement was voided, subject to the limitations of Section 4, 7, 12, or 38 of this Act;**
- (b) **Except as provided by paragraphs (c) and (d) of this subsection, if a retired member, annuitant, or retiree is receiving a retirement allowance from the systems administered by the Kentucky Retirement Systems and is reemployed or elected to a position with an agency participating in the systems**

administered by the Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date from the system:

1. *Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;*
 2. *The member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;*
 3. *The retired member may continue to draw his or her retirement allowance during the period of reemployment if:*
 - a. *The period of reemployment is not considered regular full-time as defined by paragraph (g) of this subsection; or*
 - b. *The period of reemployment is considered regular full-time but the member has not returned to reemployment for at least a twelve (12) month period following his or her initial retirement. If the member returns to reemployment in a regular full-time position after a three (3) month but prior to a twelve (12) month period following his or her initial retirement, then the member's retirement allowance shall be suspended until twelve (12) months following his or her initial retirement; and*
 4. *The employer shall pay the employer normal cost contributions as specified by subsection (1)(b) of Section 18 of this Act and Section 30 of this Act, on all creditable compensation earned by the employee during the period of regular full-time reemployment, based upon the system in which the member is reemployed. The employer normal cost contributions shall be payable on the employee's behalf for the period of regular full-time reemployment and shall be used to pay down the unfunded liability of the systems;*
- (c) *If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System or is a certified peace officer as provided in KRS Chapter 15, and is reemployed in any position with an agency participating in the systems or plans administered by the Kentucky Retirement Systems, regardless of whether or not the position is considered regular full-time under KRS 61.510(21), 78.510(21), or paragraph (g) of this subsection, within a one (1) month period following the member's initial retirement date from the system, the member's retirement shall be voided and the member shall repay to the system or plan all benefits received, including any health insurance benefits. If the member's retirement is voided as provided by this paragraph and the member has returned to work in a position that qualifies for participation in a position that is considered a regular full-time position in the systems administered by Kentucky Retirement Systems as defined in KRS 61.510(21) or 78.510(21), as applicable:*
1. *The member shall contribute to a member account established for him or her in one (1) of the systems administered by the Kentucky Retirement Systems and employer contributions shall be paid on behalf of the member by the participating employer; and*
 2. *Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service, accumulated account balance, and creditable compensation, including any additional service, creditable compensation, or accumulated account balance earned after his or her initial retirement was voided, subject to the limitations of Section 4, 7, 12, or 38 of this Act;*
- (d) *If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System or is a certified peace officer as provided in KRS Chapter 15, and is reemployed with an agency participating in the systems administered by the Kentucky Retirement Systems after a one (1) month period following the member's initial retirement date from the system,*

the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. *Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;*
 2. *The member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment; and*
 3. *The employer shall pay the employer normal cost contributions as specified by subsection (1)(b) of Section 18 of this Act and Section 30 of this Act on all creditable compensation earned by the employee during the period of regular full-time reemployment, based upon the system in which the member is reemployed. The employer normal cost contributions shall be payable on the employee's behalf for the period of regular full-time reemployment and shall be used to pay down the unfunded liability of the systems;*
- (e) *Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:*
1. *Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer for which the retired member is performing volunteer services;*
 2. *Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;*
 3. *The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and*
 4. *Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date.*
- If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services, and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service;*
- (f) *Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:*
1. *Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or*
 2. *Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body; and*

- (g) *For purposes of this subsection, "regular full-time" shall mean any position that requires an average of one hundred (100) or more hours per month over a calendar or fiscal year basis, except that in the case of classified school board employees it shall be more than one hundred (100) days of work during the fiscal year. Interim, temporary, or seasonal positions as defined and time limited by subsection (21) of Section 14 of this Act or subsection (21) of Section 15 of this Act shall not be considered regular full-time.*
- (h) *Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, an individual who retires and begins drawing a retirement allowance from one (1) or more of the systems or plans administered by the Teachers' Retirement System or the Judicial Form Retirement System on or after January 1, 2019, who is reemployed with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems, shall not be eligible to earn benefits in the Kentucky Employees Retirement System, County Employees Retirement System, or the State Police Retirement System for reemployment that occurs on or after January 1, 2019.*

➔Section 29. KRS 61.680 is amended to read as follows:

Except as limited by Section 4, 7, 12, or 38 of this Act:

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).
- (2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714:
 - 1. Upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System, except for service prohibited by KRS 161.623(2), shall be consolidated for the purpose of determining eligibility and amount of benefits, including those members who participate in the hybrid cash balance plan *or 401(a) money purchase plans* within the Kentucky Employees Retirement System, the County Employees Retirement System, ~~and the~~ State Police Retirement System, *or the Teachers' Retirement System* ~~[on or after January 1, 2014]~~;
 - 2. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement for an employee who begins participating before September 1, 2008, but not the amount of benefits;
 - 3. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation, excluding compensation earned under KRS 161.155(10), shall be determined as if all service were in one (1) system;
 - 4. If the member has prior service in more than one (1) system administered by Kentucky Retirement Systems, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this subsection; and
 - 5. Upon the determination of benefits, each system shall pay the applicable amount of benefits due the member.
- (b) The provisions of paragraph (a) of this subsection shall be waived if the member:
 - 1. Notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System; or
 - 2. Fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by Kentucky Retirement Systems.

- (c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3) (a) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership.
- (b) Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System.
- (c) A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems or Kentucky Teachers' Retirement System shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.
- (4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.
- (b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.
- (c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(5).
- (5) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.
- (6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions

are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

- (7) (a) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, except that total service in all systems, unless prohibited by KRS 161.623(2), shall be used to determine the reduction for early retirement, if any. Except as provided in KRS 21.360, the final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.
 - (b) Paragraph (a) of this subsection shall be waived if the member fails to simultaneously retire from all state-administered retirement systems in which the member has an account or fails to retire from any other systems not administered by Kentucky Retirement Systems within one (1) month of the member's effective retirement date in the systems administered by the Kentucky Retirement Systems.
- (8) Each retirement system from which the member retires shall pay a retirement allowance upon receipt of required forms and documents, except that no retirement system shall pay a retirement allowance or annuity until all forms and documents are filed at all retirement systems in compliance with each system's requirements.

➔Section 30. KRS 61.702 is amended to read as follows:

- (1) (a)
 - 1. The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section.
 - 2. Any person who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of the hospital and medical insurance plan coverage and the benefits to which he would be entitled under this section.
 - 3. For purposes of this section, "hospital and medical insurance plan" may include, at the board's discretion, any one (1) or more of the following:
 - a. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;
 - b. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or account, in the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or
 - c. A medical insurance reimbursement program established by the board through the promulgation of administrative regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041.

- (b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.
 - (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.
 - (d) Notwithstanding anything in KRS Chapter 61 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq., including but not limited to receiving contributions and premiums from, and providing benefits pursuant to this section to, persons entitled to continuation coverage under 42 U.S.C. secs. 300bb-1 et seq., regardless of whether such persons are recipients of a retirement allowance.
- (2) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance trust fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.
- (b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member having a membership date on or after September 1, 2008, ***and effective January 1, 2019, of each member having a membership date on or after July 1, 2003, but prior to September 1, 2008***, an amount equal to one percent (1%) of the member's creditable compensation.
- The deducted amounts shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520.
2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 61.675 and 78.625. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.
3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.
4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member may elect whether to participate in, or choose the contribution amount to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior to September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20), then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.

5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 through the use of separate accounts.
- (3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:
1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
 2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance trust fund;
 3. Wholly or partly from funds contributed to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520;
 4. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;
 5. Partly from subparagraphs 1. to 4. of this paragraph, except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance trust fund; accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520; or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient by an automatic electronic transfer of funds. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay the balance, not to exceed the monthly contribution; or
 6. In full from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible

for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.

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

- (c) The insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, KRS 61.515, and 78.520 shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 provides coverage for the spouse or each dependent child of a former member of the County Employees Retirement System, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall continue the same level of coverage for the spouse or each dependent child after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent child is not eligible for Medicare coverage.
- (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.
- (6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
- (7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.
- (8) (a) 1. For employees having a membership date on or after July 1, 2003, and before September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.
2. For an employee having a membership date on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (b) An employee who meets the minimum service requirements as provided by paragraph (a) of this subsection shall be eligible for benefits as follows:
1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee.
2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or as a participating member of the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.

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

➔Section 31. KRS 61.705 is amended to read as follows:

- (1) Upon the death of a retired member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System who was receiving a monthly retirement allowance based on a minimum of forty-eight (48) months of service or whose retirement allowance based on a minimum of forty-eight (48) months was suspended in accordance with KRS 61.637, a death benefit of five thousand dollars (\$5,000) shall be paid. If the retired member had more than one (1) account in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System, the system shall pay only one (1) five thousand dollar (\$5,000) death benefit. Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.
- (2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, a person, the retired member's estate, a trust or trustee, or a licensed funeral home, as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section is a person and that person dies prior to the member, or if the beneficiary was the retired member's spouse and they were divorced on the date of the retired member's death, then the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation. If a licensed funeral home is designated as beneficiary and the licensed funeral home cannot be reasonably identified or located by Kentucky Retirement Systems at the time of the retired member's death, then the retired member's estate shall become the beneficiary of the death benefit.
- (3) If, at the time of the retired member's death, a debt to the Kentucky Retirement Systems remains on his or her account, the balance owed shall be deducted from the five thousand dollars (\$5,000) death benefit.
- (4) Upon the death of a retired member, the death benefit provided pursuant to this section may be assigned by the designated beneficiary to a bank or licensed funeral home.

- (5) *Effective January 1, 2019, this section does not apply to members who began participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.*

➔Section 32. KRS 16.652 is amended to read as follows:

- (1) For members who begin participating in the State Police Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the member, and in further consideration of benefits received by the state from the member's employment, KRS 16.510 to 16.645~~], except as provided in KRS 6.696 effective September 16, 1993,~~ shall constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall~~], except as provided in KRS 6.696,~~ not be subject to reduction or impairment by alteration, amendment or repeal, *except:*
- (a) *As provided in KRS 6.696; and*
- (b) *The General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 16.505 to 16.652 that become effective on or after July 1, 2018.*
- (2) (a) For members who begin participating in the State Police Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 16.505 to 16.652 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 16.505 to 16.652, for members who begin participating in the State Police Retirement System on or after January 1, 2014, except the benefits specified by paragraph (b) of this subsection.
- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the State Police Retirement System as provided by KRS 16.505 to 16.652 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 33. KRS 61.692 is amended to read as follows:

- (1) For members who begin participating in the Kentucky Employees Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the state from the member's employment, KRS 61.510 to 61.705 shall~~], except as provided in KRS 6.696 effective September 16, 1993,~~ constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall~~], except as provided in KRS 6.696,~~ not be subject to reduction or impairment by alteration, amendment, or repeal, *except:*
- (a) *As provided in KRS 6.696; and*
- (b) *The General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 61.510 to 61.705 that become effective on or after July 1, 2018.*
- (2) (a) For members who begin participating in the Kentucky Employees Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 61.510 to 61.705 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 61.510 to 61.705, except the benefits specified by paragraph (b) of this subsection, for members who begin participating in the Kentucky Employees Retirement System on or after January 1, 2014.

- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Kentucky Employees Retirement System as provided by KRS 61.510 to 61.705 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 34. KRS 78.852 is amended to read as follows:

- (1) For members who begin participating in the County Employees Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the county from the member's employment, KRS 78.510 to 78.852 shall ~~not be subject to reduction or impairment by alteration, amendment, or repeal, except as provided in KRS 6.696 effective September 16, 1993,~~ constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall ~~not be subject to reduction or impairment by alteration, amendment, or repeal, except as provided in KRS 6.696,~~ not be subject to reduction or impairment by alteration, amendment, or repeal, **except:**

(a) *As provided in KRS 6.696; and*

(b) *The General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 78.510 to 78.852 that become effective on or after July 1, 2018.*

- (2) (a) For members who begin participating in the County Employees Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 78.510 to 78.852 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
- (b) For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
- (c) The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 78.510 to 78.852, except the benefits specified by paragraph (b) of this subsection, for members who begin participating in the County Employees Retirement System on or after January 1, 2014.
- (3) The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the County Employees Retirement System as provided by KRS 78.510 to 78.852 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.

➔Section 35. KRS 61.605 is amended to read as follows:

- (1) Upon disability retirement, ***except as provided by subsection (2) of this section,*** an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the person's total service beginning with his last date of paid employment and continuing to his sixty-fifth birthday; however, the maximum service credit added shall not exceed the total service the person had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, a person has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to twenty-seven (27) years.
- (2) (a) For a member whose participation begins on or after August 1, 2004, but prior to January 1, 2014, the disability retirement allowance shall be the higher of twenty percent (20%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.
- (b) For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 61.597 ***or who elects to participate in the 401(a) money purchase plan as provided by Section 7, 12, or 38 of this Act,*** the disability retirement allowance shall be the higher of twenty percent (20%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under KRS 61.597 ***or Section 12 of this Act, as applicable.***

➔Section 36. KRS 61.640 is amended to read as follows:

- (1) If a member dies prior to the first day of the month in which the member would have received his or her first retirement allowance, the member's beneficiary shall be eligible for the benefits provided by this section if the member had on file a written designation of a beneficiary with the retirement office as provided by KRS 61.542 and the member met the following conditions at the date of his or her death:
 - (a) The member was eligible to retire under KRS 61.559(2) or (3), ~~or~~ 61.597(6)(a) or (b), **or subsection (5)(a) or (b) of Section 12 of this Act**;
 - (b) The member was in active employment or on authorized leave of absence with five (5) or more years of service credit and died prior to his or her normal retirement date or was normal retirement age or older and had at least four (4) years of service credit; or
 - (c) The member was not in active employment or on authorized leave of absence with twelve (12) or more years of service credit and died prior to his or her normal retirement date.
- (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is a single person, then the beneficiary may elect to receive:
 - (a) A monthly benefit payable for the life of the beneficiary that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided in KRS 61.635(2);
 - (b) A monthly benefit payable for the life of the beneficiary under the beneficiary Social Security adjustment option as provided in KRS 61.635(9) that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - (c) A monthly benefit payable for a period of sixty (60) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - (d) A monthly benefit payable for a period of one hundred twenty (120) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - (e) If the member began participating in the system prior to January 1, 2014, a monthly benefit payable for a period of one hundred twenty (120) months that is equivalent to the benefit the member would have been entitled to receive based on his or her years of service and final compensation at the date of his or her death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection; or
 - (f) The higher of a refund of the member's accumulated account balance as described in KRS 61.625(1) or one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under paragraph (a) of this subsection for a period of sixty (60) months.
- (3) If the beneficiary eligible for benefits as provided by subsection (1) of this section are multiple beneficiaries or a trust, then the multiple beneficiaries by consensus or the trustee may elect to receive the actuarial equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section using the assumption that the beneficiary's age is the same as the member's age.
- (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is the member's estate, then the beneficiary shall receive the higher of a refund of the member's accumulated account balance as described in KRS 61.625(1) or the one (1) time lump-sum payment payable under subsection (2)(f) of this section, using the assumption that the beneficiary's age is the same as the member's age.
- (5) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

➔Section 37. KRS 61.559 is amended to read as follows:

- (1) In lieu of any other benefits due under KRS 61.510 to 61.705 and 78.510 to 78.852, a member who begins participating before September 1, 2008, who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service may elect to receive an annual retirement allowance payable monthly or less frequently, as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual

retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

- (2) A member who begins participating before September 1, 2008, who is sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:
 - (a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or
 - (b) The member is a retired member of the State Police Retirement System, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or
 - (c) The member is less than age fifty-five (55) and has twenty-five (25) or more years of service, at least fifteen (15) of which are current service; or
 - (d) The member has thirty (30) or more years of service at least fifteen (15) of which are current service, or the member of the Kentucky Employees Retirement System or the County Employees Retirement System has twenty-seven (27) or more years of service, at least fifteen (15) of which are current service; or
 - (e) The member of the Kentucky Employees Retirement System has, at least, twenty-six (26) years of service credit, at least sixteen (16) of which are current consecutive years of service as a cabinet secretary or administrative head of one (1) of the three (3) branches of government; or
 - (f) The member has attained age fifty-five (55) and was an employee of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.
- (3) A member who begins participating on or after September 1, 2008, but prior to January 1, 2014, is eligible for a retirement allowance determined under KRS 61.595 if:
 - (a) The member is sixty-five (65) years of age or older and has at least five (5) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;
 - (b) The member is fifty-seven (57) years of age or older and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for a retirement allowance under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system; or
 - (c) The member is sixty (60) years of age or older and has at least ten (10) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (4) Subsections (1) to (3) of this section shall not apply to members who begin participating in the system on or after January 1, 2014. Members who begin participating in the system on or after January 1, 2014, shall receive the retirement benefits prescribed by KRS 61.597 *or the 401(a) money purchase plan prescribed by Section 12 of this Act, as applicable.*

➔Section 38. KRS 61.5955 is amended to read as follows:

Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852:

- (1) Subject to the provisions of this section, any *participating* member who began participating *in a nonhazardous position* in the Kentucky Employees Retirement System ~~or the County Employees Retirement System, or the State Police Retirement System~~ prior to **July 1, 2019**~~January 1, 2014~~, may *on or after July 1, 2019, but prior to January 1, 2021*, ~~in lieu of the benefits he or she is currently eligible to receive from the systems,~~ elect to *be provided the following benefits*:
 - (a) *Participation in the 401(a) money purchase plan provided by Section 12 of this Act in lieu of accruing any additional benefits provided by subsection (14) of Section 14 of this Act, subsection (14) of Section 15 of this Act, or Section 19 or 27 of this Act*~~receive the benefits and rights provided to members who began participating in the systems on or after January 1, 2014, including participating in the hybrid cash balance plan created pursuant to KRS 61.597 for members in nonhazardous duty positions or pursuant to KRS 16.583 for members in hazardous duty positions, as applicable;~~ *and*

- (b) *Any other benefits the person would be eligible for in the Kentucky Employees Retirement System or County Employees Retirement System based upon the election provided by this section or his or her membership date in the state-administered retirement systems.*
- (2) The election provided by this section shall be made in writing and on a form prescribed by the Kentucky Retirement Systems board;
- (3) For each member who makes an election provided by this section, ~~the~~
- (a) ~~any service credit, final compensation, or other benefits the member has accrued prior to the effective election date [January 1, 2014], shall remain but the member shall not accrue any additional service, final compensation, or any other benefits in a nonhazardous position in the Kentucky Employees Retirement System or County Employees Retirement System on or after the effective election date for purposes of determining benefits under subsection (14) of Section 14 of this Act, subsection (14) of Section 15 of this Act, or Section 19 or 27 of this Act]~~ shall be considered as service credit earned on or after January 1, 2014, for purposes of determining benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852;
- (b) ~~On the member's effective election date, the value of the member's accumulated contributions, less any interest, shall be deposited into the member's hybrid cash balance account as provided by KRS 16.583[or 61.597, as applicable, and considered part of the member's accumulated account balance;~~
- (c) ~~On the member's effective election date, an employer pay credit as provided by KRS 16.583 or 61.597, as applicable, shall be added to the member's accumulated account balance for each month the member contributed to the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System prior to his or her effective election date; and~~
- (d) ~~Interest credits as provided by KRS 16.583 or 61.597, as applicable, shall only be applied for periods occurring on or after the member's effective election date;~~
- (4) Before accepting an election provided by this section, the Kentucky Retirement Systems board shall provide the member with information detailing the potential results of the member's election;
- (5) An election made pursuant to this section shall be irrevocable;
- (6) (a) A member of the Kentucky Employees Retirement System ~~or the~~ County Employees Retirement System ~~, or the State Police Retirement System,~~ shall not be eligible to make an election prescribed by this section until the Kentucky Retirement Systems receive a favorable private letter ruling from the Internal Revenue Service regarding this section.
- (b) If the Internal Revenue Service denies the request for a private letter ruling as provided by paragraph (a) of this subsection, this section shall be void.
- (c) The Kentucky Retirement Systems may promulgate administrative regulations under KRS Chapter 13A in order to carry out this section; and
- (7) This section shall not apply to retirees who were reemployed on or after September 1, 2008, and who are not eligible to participate in the systems during reemployment.
- ➔Section 39. KRS 61.655 is amended to read as follows:
- (I) No trustee or employee of the Kentucky Retirement Systems board shall:
- (a) ~~(1)~~ Have any interest, direct or indirect, in the gains or profits of any investment or *any other legal, business, or financial* transaction made by the board, save insofar as any such trustee or employee may be a member, employee, or beneficiary of the retirement system;
- (b) ~~(2)~~ Directly or indirectly, for himself or as an agent, use the assets of the retirement system, except to make current and necessary payments authorized by the board;
- (c) ~~(3)~~ Become an indorser or surety or in any manner an obligor for moneys loaned by or borrowed from the board;
- (d) ~~(4)~~ Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;
- (e) ~~(5)~~ Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;

- (f)(6) Use confidential information acquired during his or her tenure with the retirement system to further his or her own economic interests or that of another person; or
- (g)(7) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the retirement system. The provisions of this subsection shall not prohibit a trustee from serving as an employee of an agency participating in one (1) of the systems administered by Kentucky Retirement Systems.
- (2) *No trustee or employee of the board of trustees, who has served as a trustee or employee of the board on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees for a period of five (5) years following termination of his or her position, except that any such trustee or employee may be a member, employee, or beneficiary of the systems administered by Kentucky Retirement Systems.*
- (3) (a) *No person who is serving as a member of the General Assembly or is a public servant as defined by subsection (9) of Section 83 of this Act shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees, except that any such trustee or public servant may be a member, employee, or beneficiary of the systems administered by Kentucky Retirement Systems.*
- (b) *No person who was serving as a member of the General Assembly on or after July 1, 2017, or was serving as a public servant as defined by subsection (9) of Section 83 of this Act on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees for a period of five (5) years following termination of his or her position, except that any such member or public servant may be a member, employee, or beneficiary of the systems administered by Kentucky Retirement Systems.*

➔Section 40. KRS 16.583 is amended to read as follows:

- (1) A member of the State Police Retirement System, a member of the Kentucky Employees Retirement System in a hazardous duty position covered by this section, or a member of the County Employees Retirement System in a hazardous duty position covered by this section, whose participation begins on or after January 1, 2014, ~~for a member making an election pursuant to KRS 61.5955,]~~shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under KRS 16.576 and 16.577. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.
- (2) The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:
- (a) Contributions made by the member as provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except for employee contributions prescribed by KRS 61.702(2)(b);
- (b) An employer pay credit of seven and one-half percent (7.5%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and
- (c) Interest credits added annually to the member's accumulated account balance as provided by this section.
- (3) (a) Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 61.675 and 78.625.
- (b) Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.
- (4) (a) On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.
- (b) If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:
1. Four percent (4%); plus

2. Seventy-five percent (75%) of the system's geometric average net investment return in excess of a four percent (4%) rate of return.
- (c) If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).
- (d) For purposes of this subsection, "system's geometric average net investment return":
 1. Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and
 2. Shall be expressed as a percentage and based upon the system in which the member has an account.
- (e) No employer pay credits or interest credits shall be provided to a member who has taken a refund of contributions as provided by KRS 61.625 or who has retired and annuitized his or her accumulated account balance as prescribed by this section.
- (5) (a) Upon termination of employment, a member who has less than five (5) years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.
- (b) Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her accumulated account balance.
- (6) A member participating in the hybrid cash balance plan provided by this section may retire:
 - (a) At his or her normal retirement date, provided he or she has earned five (5) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1), or another state-administered retirement system; or
 - (b) At any age, provided he or she has earned twenty-five (25) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (7) A member eligible to retire under subsection (6) of this section may elect to:
 - (a) Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;
 - (b) Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in KRS 61.635, except for the option provided by KRS 61.635(11); or
 - (c) Take a refund of his or her account balance as provided by KRS 61.625.
- (8) The provisions of this section shall not apply to members who began participating in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System prior to January 1, 2014~~, except for those members making an election pursuant to KRS 61.5955~~.

➔Section 41. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, as provided for by KRS 61.535;
- (2) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (3) Actuarial bases, as provided for by KRS 61.670;
- (4) Duties of the employer, as provided for by KRS 61.675;
- (5) Exemption of benefits of the system for taxation and qualified domestic relations orders, as provided for by KRS 61.690;

- (6) Retirement allowance increase, as provided for by KRS 61.691;
- (7) Calculation of retirement allowance, as provided for by KRS 61.599;
- (8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
- (9) Year of service credit, as provided for by KRS 61.545;
- (10) Refund of contributions, death after retirement, as provided by KRS 61.630;
- (11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
- (12) Credit for service prior to membership date, as provided for by KRS 61.526;
- (13) Member's account, confidential, as provided for by KRS 61.661;
- (14) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (15) Correction of errors in records, as provided for by KRS 61.685;
- (16) Maximum disability benefit, as provided for by KRS 61.607;
- (17) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (18) Employer contributions, as provided for by KRS 61.565;
- (19) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;
- (20) Reciprocal arrangement between systems, as provided by KRS 61.680;
- (21) Refund of contributions, conditions, as provided by KRS 61.625;
- (22) Hospital and medical insurance plan, as provided by KRS 61.702;
- (23) Death benefit, as provided by KRS 61.705;
- (24) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;
- (25) Service credit, Armed Forces, as provided by KRS 61.555;
- (26) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (27) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (28) Retirement of persons in hazardous positions, as provided for by KRS 61.592;
- (29) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;
- (30) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (31) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (32) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637;
- (33) Medical examination and financial review after disability retirement, staff review, as provided in KRS 61.610;
and
- (34) Employer payment of increases in creditable compensation and adjustments to creditable compensation during the last five (5) years of employment as provided by KRS 61.598~~4~~; *and*
- ~~(35) Benefit election for members of the Kentucky Retirement Systems who began participating prior to January 1, 2014, as provided by KRS 61.5955].~~

➔Section 42. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, conditions, as provided for by KRS 61.535;
- (2) Statement of member and employer, as provided for by KRS 61.540;

- (3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
- (4) Service credit determination, as provided for by KRS 61.545;
- (5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (6) Service credit, Armed Forces, as provided for by KRS 61.555;
- (7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;
- (8) Retirement allowance increases as provided for by KRS 61.691;
- (9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (10) Disability retirement, conditions, as provided for by KRS 61.600;
- (11) Disability retirement, allowance, as provided for by KRS 61.605;
- (12) Medical examination after disability retirement, as provided for by KRS 61.610;
- (13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
- (14) Determination of retirement allowance, as provided for by KRS 61.595;
- (15) Refund of contributions, conditions, as provided for by KRS 61.625;
- (16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
- (17) Optional retirement plans, as provided for by KRS 61.635;
- (18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;
- (19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
- (20) Board of trustees, conflict of interest, as provided for by KRS 61.655;
- (21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- (22) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (23) Actuarial bases, as provided for by KRS 61.670;
- (24) Employer's administrative duties, as provided for by KRS 61.675;
- (25) Correction of errors in records, as provided for by KRS 61.685;
- (26) Exemptions of retirement allowances, and qualified domestic relations orders, as provided for by KRS 61.690;
- (27) Credit for service prior to membership date, as provided for by KRS 61.526;
- (28) Creditable compensation of fee officers, as provided for by KRS 61.541;
- (29) Members' account, confidential, as provided for by KRS 61.661;
- (30) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;
- (31) Maximum disability benefit, as provided for by KRS 61.607;
- (32) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;
- (33) Employer contributions, as provided for by KRS 61.565;
- (34) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;
- (35) Hospital and medical insurance plan, as provided by KRS 61.702;
- (36) Death benefit, as provided by KRS 61.705;
- (37) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (38) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (39) Disability procedure for members in hazardous positions as provided for in KRS 16.582;
- (40) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;

- (41) Death or disability from a duty-related injury as provided in KRS 61.621;
- (42) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (43) Payment of small accounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (44) Hybrid cash balance plan *and 401(a) money purchase plan* provided to new members as provided by KRS 61.597 *and Section 12 of this Act*;
- (45) Employer payment of increases in creditable compensation and adjustments to creditable compensation during the last five (5) years of employment as provided by KRS 61.598;
- (46) Calculation of retirement allowance, as provided by KRS 61.599;
- (47) Voluntary and involuntary cessation of participation by a participating agency as provided by KRS 61.522; and
- (48) Benefit election for members of the Kentucky Retirement Systems who began participating prior to *July 1, 2019* ~~January 1, 2014~~, as provided by KRS 61.5955.

➔SECTION 43. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED TO READ AS FOLLOWS:

- (1) *An individual who becomes a member of the Teachers' Retirement System on or after January 1, 2019, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under Sections 69 and 73 of this Act. The retirement benefits provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Teachers' Retirement System.*
- (2) *The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:*
 - (a) *Contributions made by the member as provided by KRS 161.220 to 161.716, except for employee contributions prescribed by subsection (1)(a)2., (1)(b)2., or (1)(c) of Section 57 of this Act;*
 - (b) *An employer pay credit for:*
 - 1. *Nonuniversity employees equal to eight percent (8%) of the compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and*
 - 2. *University employees equal to four percent (4%) of the compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and*
 - (c) *Regular interest added annually to the member's accumulated account balance as provided by this section.*
- (3) (a) *Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 161.560.*
 - (b) *Regular interest, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.*
- (4) (a) *On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan or another state-administered retirement system during the fiscal year.*
 - (b) *If the member contributed to the hybrid cash balance plan or another state-administered retirement system during the fiscal year, the regular interest added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to eighty-five percent (85%) of the system's geometric average net investment return, but in no case shall be less than zero percent (0%).*
 - (c) *If the member did not contribute to the hybrid cash balance plan or another state-administered retirement system during the fiscal year, the regular interest added to the member's account for that fiscal year shall be zero percent (0%).*
 - (d) *For purposes of this subsection, "system's geometric average net investment return":*

1. *Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last ten (10) fiscal years as of the date the regular interest is credited to the member's account; and*
 2. *Shall be expressed as a percentage.*
- (e) *No employer pay credits or regular interest shall be provided to a member who has taken a refund of his or her accumulated account balance as provided by Section 49 of this Act or who has retired and annuitized his or her accumulated account balance as prescribed by this section.*
- (5) (a) *Upon termination of employment, a member who has less than five (5) years of service credited under Section 51 of this Act, who elects to take a refund of his or her accumulated account balance as provided by Section 49 of this Act, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.*
- (b) *Upon termination of employment, a member who has five (5) or more years of service credited under Section 51 of this Act, who elects to take a refund of his or her accumulated account balance as provided by Section 49 of this Act, shall receive a full refund of his or her accumulated account balance.*
- (6) *A member participating in the hybrid cash balance plan provided by this section may qualify for service retirement by meeting one (1) of the following requirements:*
- (a) *On or after age sixty-five (65), if he or she has earned five (5) or more years of service credited under Section 51 of this Act, or another state-administered retirement system; or*
- (b) *If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under Section 51 of this Act, or another state-administered retirement system.*
- (7) *A member eligible to retire under subsection (6) of this section may elect to:*
- (a) *Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement system in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;*
- (b) *Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options established by the board pursuant to Section 75 of this Act; or*
- (c) *Take a refund of his or her account balance as provided by Section 49 of this Act.*
- (8) *This section does not apply to members who began participating in the Teachers' Retirement System prior to January 1, 2019, except for those members who make an election as prescribed by subsection (9) of this section.*
- (9) (a) *Subject to the provisions of this subsection, any contributing member who began participating in the Teachers' Retirement System prior to January 1, 2019, who has less than five (5) years of service in the system may, in lieu of the benefits he or she is currently eligible to receive from the Teachers' Retirement System, elect to participate in the hybrid cash balance plan provided by this section and receive the other benefits and rights under KRS 161.220 to 161.716 provided to members who began participating in the system on or after January 1, 2019. After such election, the member shall for purposes of KRS 161.220 to 161.716 be considered a member who began participating on or after January 1, 2019.*
- (b) *The election provided by this subsection shall be made in writing and on a form prescribed by the Teachers' Retirement System board.*
- (c) *For each member who makes an election provided by this subsection:*
1. *Any service credit the member has accrued prior to January 1, 2019, shall be considered as service credit earned on or after January 1, 2019; and*
 2. *On the member's effective election date, the value of the member's accumulated contributions shall be deposited into the member's hybrid cash balance plan account.*

- (d) *Before accepting an election provided by this subsection, the Teachers' Retirement System board shall provide the member with information detailing the potential results of the member's election.*
- (e) *An election made pursuant to this subsection shall be irrevocable.*
- (f) *1. A member of the Teachers' Retirement System shall not be eligible to make an election prescribed by this subsection until the board receives a favorable private letter ruling from the Internal Revenue Service regarding this subsection.*
2. If the Internal Revenue Service denies the request for a private letter ruling as provided by subparagraph 1. of this paragraph, this subsection shall be void.
3. The system may promulgate administrative regulations under KRS Chapter 13A in order to carry out this subsection.
- (g) *This subsection does not apply to annuitants who retired on or after January 1, 2019, and who were reemployed on or after January 1, 2019, and who are not eligible to participate in the system during reemployment.*

➔Section 44. KRS 161.155 is amended to read as follows:

- (1) As used in this section:

- (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
- (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
- (c) "Immediate family" shall mean the teacher's or employee's spouse, children including stepchildren and foster children, grandchildren, daughters-in-law and sons-in law, brothers and sisters, parents and spouse's parents, and grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's or employee's home;
- (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other available paid leave days; and
- (e) "Assault" shall mean an act that intentionally causes injury so significant that the victim is determined to be, by certification of a physician or surgeon duly qualified under KRS Chapter 342, incapable of performing the duties of his or her job.

- (2) Each district board of education shall allow to each teacher and full-time employee in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher or employee if he or she presents a personal affidavit or a certificate of a physician stating that the teacher or employee was ill, that the teacher or employee was absent for the purpose of attending to a member of his or her immediate family who was ill, or for the purpose of mourning a member of his or her immediate family. The ten (10) days of sick leave granted in this subsection may be taken by a teacher or employee on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher or employee under the provisions of subsection (4) of this section.

- (3) A school district shall coordinate among the income and benefits from workers' compensation, temporary disability retirement, and district payroll and benefits so that there is no loss of income or benefits to a teacher or employee for work time lost because of an assault while performing the teacher's or employee's assigned duties for a period of up to one (1) year after the assault. In the event a teacher or employee suffers an assault while performing his or her assigned duties that results in injuries that qualify the teacher or employee for workers' compensation benefits, the district shall provide leave to the teacher or employee for up to one (1) year after the assault with no loss of income or benefits under the following conditions:

- (a) The district shall pay the salary of the teacher or employee between the time of the assault and the time the teacher's or employee's workers' compensation income benefits take effect, or the time the teacher or employee is certified to return to work by a physician or surgeon duly qualified under KRS Chapter 342, whichever is sooner;
- (b) The district shall pay, for up to one (1) year from the time of the assault, the difference between the salary of the teacher or employee and any workers' compensation income benefits received by the

teacher or employee resulting from the assault. Payments by the district shall include payments for intermittent work time missed as a result of the assault during the one (1) year period. If the teacher's or employee's workers' compensation income benefits cease during the one (1) year period after the assault, the district shall also cease to make payments under this paragraph;

- (c) The Commonwealth, through the Kentucky Department of Education, shall make the employer's health insurance contribution during the period that the district makes payments under paragraphs (a) and (b) of this subsection;
 - (d) The Commonwealth, through the Kentucky Department of Education, shall make the employer's contribution to the retirement system in which the teacher or employee is a member during the period that the district makes payments under paragraphs (a) and (b) of this subsection; and
 - (e) Payments to a teacher or employee under paragraphs (a) and (b) of this subsection shall be coordinated with workers' compensation benefits under KRS Chapter 342, disability retirement benefits for teachers under KRS 161.661 to 161.663, and disability retirement benefits for employees under KRS 61.600 to 61.621 and 78.545 so that the teacher or employee receives income equivalent to his or her full contracted salary, but in no event shall the combined payments exceed one hundred percent (100%) of the teacher's or employee's full contracted salary.
- (4) Days of sick leave not taken by an employee or a teacher during any school year shall accumulate without limitation and be credited to that employee or teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow employees or teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to an employee or a teacher shall remain so credited in the event he or she transfers his or her place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district.
- (5) Accumulated days of sick leave shall be granted to a teacher or employee if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher or employee is unable to commence his or her duties on the opening day of the school year, but will be able to assume his or her duties within a period of time that the board determines to be reasonable.
- (6) Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.
- (7) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the bank. Only those teachers or employees who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.
- (8) (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days' sick leave may request the board of education to transfer a designated amount of sick leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.
- (b) A teacher or employee may receive donations of sick leave if:
- 1. a. The teacher or employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days; or
 - b. The teacher or employee suffers from a catastrophic loss to his or her personal or real property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to be absent for at least ten (10) consecutive working days;

2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician for leave requested under subparagraph 1.a. of this subsection;
 3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
 4. The teacher or employee has complied with the school district's policies governing the use of sick leave.
- (c) While a teacher or employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
 - (d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.
 - (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.
- (9) A teacher or employee may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.
 - (10) (a) After July 1, 1982, ***and except as otherwise provided by this subsection***, a district board of education may compensate, at the time of retirement or upon the death of a member in active contributing status at the time of death who was eligible to retire by reason of service, an employee or a teacher, or the estate of an employee or teacher, for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days, ***not to exceed the amount based upon the unused sick leave days accrued as of December 31, 2018***, shall be incorporated into the ***annual compensation***~~annual salary~~ of the final year of service for inclusion in the calculation of the employee's or teacher's retirement allowance only at the time of his or her initial retirement; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.
 - (b) For a teacher or employee who begins employment with a local school district on or after July 1, 2008, the maximum amount of unused sick leave days a district board of education may recognize in calculating the payment of compensation to the teacher or employee under this subsection shall not exceed three hundred (300) days.
 - (11) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (10) of this section.
 - (12) The death benefit provided in subsection (10) of this section may be cited as the Baughn Benefit.

➔Section 45. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and 161.990:

- (1) "Retirement system" means the arrangement provided for in KRS 161.220 to 161.716 and 161.990 for payment of allowances to members;
- (2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;
- (3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;
- (4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, employees participating in the system pursuant to KRS 196.167(3)(b)1., and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:
 - (a) Local boards of education;

- (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;
- (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
- (d) The Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;
- (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;
- (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included, *except as limited by Section 71 of this Act*. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;
- (g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;
- (h) The Office of Career and Technical Education, except that the executive director shall not be a member;
- (i) The Office of Vocational Rehabilitation;
- (j) The Kentucky Educational Collaborative for State Agency Children;
- (k) The Governor's Scholars Program;
- (l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member, *except that any person who retires on or after January 1, 2019, shall upon reemployment after retirement not earn a second retirement account*;
- (m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the former Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;
- (n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance, and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the former Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540, ~~and~~ 161.620, *and Section 43 of this Act*;

- (o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the former Cabinet for Workforce Development and the commissioners of the former Department for Adult Education and Literacy and the former Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;
 - (p) Employees of the Kentucky Department of Education only who are graduates of a four (4) year college or university, notwithstanding a substitution clause within a job classification, and who are serving in a professional job classification as defined by the department; and
 - (q) The Governor's School for Entrepreneurs Program.
- (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);
- (6) "New teacher" means any member not a present teacher;
- (7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;
- (8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;
- (9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:
- (a) The member's actual salary; or
 - (b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave if the individual becomes a member before July 1, 2008, or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service ***as provided by Section 44 of this Act;***

- (10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for

retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation. For an individual who becomes a member on or after July 1, 2008, annual compensation shall not include lump-sum payments upon termination of employment for accumulated annual or compensatory leave;

- (11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;
- (12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;
- (13) "Regular interest" means interest at three percent (3%) per annum, except:
 - (a) For an individual who becomes a member on or after July 1, 2008, ***but prior to January 1, 2019***, "regular interest" means interest at two and one-half percent (2.5%) per annum for purposes of crediting interest to the teacher savings account or any other contributions made by the employee that are refundable to the employee upon termination of employment; ***and***
 - (b) ***For an individual who becomes a member on or after January 1, 2019, who is participating in the hybrid cash balance plan, "regular interest" means the regular interest credited to the member's accumulated account balance as provided by Section 43 of this Act;***
- (14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;
- (15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;
- (16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;
- (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;
- (18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;
- (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;
- (20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;
- (21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;
- (22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400;
- (23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick ***leave authorized by Section 44 of this Act***, annual, personal, and compensatory leave, and any other lump-sum payment. For an individual who becomes a member on or after July 1, 2008,

payments for annual or compensatory leave shall not be included in determining the member's last annual compensation;

- (24) "Participant" means a member, as defined by subsection (4) of this section, or an annuitant, as defined by subsection (15) of this section;
- (25) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;~~{and}~~
- (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (27) *"University member" means an individual who becomes a member through employment with an employer specified in subsection (4)(b) and (n) of this section;*
- (28) *"Nonuniversity member" means an individual who becomes a member through employment with an employer specified under subsection (4) of this section, except for those members employed by an employer specified in subsection (4)(b) and (n) of this section;*
- (29) *"Accumulated employer credit" means the employer pay credit deposited to the member's account and regular interest credited on such amounts as provided by Section 43 of this Act; and*
- (30) *"Accumulated account balance" means:*
 - (a) *For members who began participating in the system prior to January 1, 2019, the member's accumulated contributions; or*
 - (b) *For members who began participating in the system on or after January 1, 2019, in the hybrid cash balance plan as provided by Section 43 of this Act, the combined sum of the member's accumulated contributions and the member's accumulated employer credit.*

➔Section 46. KRS 161.400 is amended to read as follows:

- (1) (a) The board of trustees shall designate as actuary a competent person who shall be a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith.
- (b) At least once in each five (5) year period, the actuary shall make an actuarial investigation into the actuarial assumptions and funding methods used, including but not limited to mortality, investment rate of return, and service and compensation of the members and beneficiaries of the retirement system, relative to the actuarial assumptions and funding methods previously adopted by the board. The actuarial investigation shall include at a minimum a summary of the changes in actuarial assumptions and funding methods recommended in the investigation and the projected impact of the recommended changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a twenty (20) year period.
- (c) At least annually the actuary shall make an actuarial valuation of the retirement system. The valuation shall include:
 - 1. A description of the actuarial assumptions used, and the assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience;
 - 2. A description of any funding methods utilized or required by state law in the development of the actuarial valuation results;
 - 3. A description of any changes in actuarial assumptions and methods from the previous year's actuarial valuation;
 - 4. The actuarially recommended contribution rate for employers for the upcoming budget periods;

5. A twenty (20) year projection of the funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers based upon the actuarial assumptions, funding methods, and experience of the system as of the valuation date; and
 6. A sensitivity analysis that evaluates the impact of changes in system assumptions, including but not limited to the investment return assumption, payroll growth assumption, and medical inflation rates, on employer contribution rates, funding levels, and unfunded liabilities.
- (d) On the basis of the results of the valuations, the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall **establish**~~recommend~~ the contributions payable by **employers and** the state ~~within the limits~~ specified in KRS 161.550.
 - (e) For any change in actuarial assumptions, funding methods, retiree health insurance premiums and subsidies, or any other decisions made by the board that impact system liabilities and actuarially recommended contribution rates for employers and that are not made in conjunction with the actuarial investigation required by paragraph (b) of this subsection, an actuarial analysis shall be completed showing the projected impact of the changes on funding levels, unfunded liabilities, and actuarially recommended contribution rates for employers over a twenty (20) year period.
- (2) Actuarial factors and actuarial cost factor tables in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees by resolution and implemented without the necessity of an administrative regulation. ~~The assets of the system shall be valued at market value, or at a modified market value determined by the board to be a prudent measure of asset value.~~
 - (3) A copy of each five (5) year actuarial investigation, actuarial analysis, and valuation required by subsection (1) of this section shall be forwarded electronically to the Legislative Research Commission no later than ten (10) days after receipt by the board, and the Legislative Research Commission shall distribute the information received to the committee staff and co-chairs of any committee that has jurisdiction over the Kentucky Teachers' Retirement System. The actuarial valuation required by subsection (1)(c) of this section shall be submitted no later than November 15 following the close of the fiscal year.

➔Section 47. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. ~~It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment, or repeal.~~ All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

- (1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the dividends and interest income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;
- (2) (a) The teachers' savings fund shall consist of:
 1. The contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund **or established by Section 43 of this Act, as applicable; and**
 2. **For individuals who become members of the Teachers' Retirement System on or after January 1, 2019, who are participating in the hybrid cash balance plan, the employer pay credit and regular interest to the hybrid cash balance plan as provided by Section 43 of this Act that is assigned by the board of trustees from the guarantee fund.**
- (b) A member may not borrow any amount of his or her accumulated **account balance**~~contributions to~~ in **the teachers' savings**~~this~~ fund, or any **regular** interest earned thereon.
- (c) The accumulated contributions **or accumulated account balance** of a member **which are** returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund.
- (d) Any accumulated **account balance**~~contributions~~ **in the teachers' savings fund** forfeited by a failure of a teacher or his estate to claim these contributions shall be transferred from ~~this~~~~the teachers' savings~~ fund to the guarantee fund.

- (e) *For an individual who becomes a member of the Teachers' Retirement System prior to January 1, 2019, the accumulated ~~account balance~~ [contributions] of a member in the teachers' savings fund shall be transferred from ~~this~~ [the teachers' savings] fund to the allowance reserve fund in the event of retirement by reason of service or disability.*
- (f) *For an individual who becomes a member of the Teachers' Retirement System on or after January 1, 2019, who is participating in the hybrid cash balance plan who elects to annuitize his or her accumulated account balance as prescribed by subsection (7)(a) or (b) of Section 43 of this Act, the member's accumulated account balance shall be transferred to the allowance reserve fund;*
- (3) The state accumulation fund shall consist of funds *paid by employers and* appropriated by the state for the purpose of providing annuities and survivor benefits, including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520 and 161.525. *There shall also be transferred from the state accumulation fund to the teachers' savings fund, the amount needed to fund the employer credits required by Section 43 of this Act;*
- (4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520 and 161.525. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;
- (5) (a) *Effective January 1, 2019, the medical insurance fund, which is an account established according to 26 U.S.C. sec. 401(h), shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.675, including:*
 - 1. *The member contributions required by subsections (1)(a)2. and (1)(b)2. of Section 57 of this Act* [For individuals who become members before July 1, 2008, one and one half percent (1.5%) of the gross annual payroll of all members shall be deposited to this fund. Of this amount, three quarters of a percent (0.75%) shall derive from member contributions as provided by KRS 161.540 and three quarters of a percent (0.75%) from a state appropriation];
 - 2. *The employer contribution required by subsections (1)(a)1.b., (1)(a)2.b., and (3)(a) of Section 63 of this Act* [For individuals who become members on or after July 1, 2008, two and one half percent (2.5%) of the gross annual payroll of all members shall be deposited to this fund. Of this amount, one and three quarters percent (1.75%) shall derive from member contributions as provided by KRS 161.540 and three quarters of a percent (0.75%) from a state appropriation];
 - 3. ~~Effective July 1, 2010, the member contributions required under KRS 161.540(1)(c);~~
 - 4. ~~Effective July 1, 2010, local board of education, agency, and organization contributions required under KRS 161.550(3), unless the board of trustees establishes a trust fund under 26 U.S.C. sec. 115 for health care purposes, in which case the board may direct those contributions to that trust fund];~~
 - 3. *State appropriations* [5. ~~Employer medical insurance fund stabilization contributions~~] as set forth in *subsection (2) of Section 63 of this Act* [KRS 161.550], unless the contributions are made to a trust fund under 26 U.S.C. sec. 115 established by the board for this purpose; and
 - 4. [6.] Interest income from the investments of the fund from contributions received by the fund under subparagraphs 1. to 3. [5.] of this paragraph, and from income earned on those investments.
- (b) All claims for benefits under KRS 161.675 shall be paid from this fund or from any trust fund under 26 U.S.C. sec. 115 as established by the board for this purpose. Any amounts deposited to the fund that are not required to meet current costs shall be maintained as a reserve in the fund for these benefits. The board shall take the necessary and appropriate steps, including promulgating administrative regulations and procedures to maintain the status of the medical insurance fund as an account subject to 26 U.S.C. sec. 401(h);
- (6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be

paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund;

- (7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of Section 403(b) of the Internal Revenue Code by a retired member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to manage this program;
- (8) The supplemental retirement benefit fund shall consist of those funds contributed by the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996. The board of trustees shall promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program; and
- (9) The life insurance benefit fund shall consist of amounts accumulated for the purpose of providing benefits provided under KRS 161.655. The board of trustees may allocate to this fund a percentage of the employer and state contributions as provided under KRS 161.550. The allocation to this fund will be in an amount that the actuary determines necessary to fund the obligation of providing the benefits provided under KRS 161.655.

➔Section 48. KRS 161.460 is amended to read as follows:

- (1) No trustee or employee of the board of trustees shall:
 - (a)~~[(1)]~~ Have any interest, direct or indirect, in the gain or profits of any investment or ***any other legal, business, or financial*** transaction made by the board, ***except that any such trustee or employee may be a member, employee, or beneficiary of the plans administered by the board or authority;***
 - (b)~~[(2)]~~ Directly or indirectly for himself or as an agent for another, use any of the assets of the retirement system in any manner except to make current and necessary payments authorized by the board;
 - (c)~~[(3)]~~ Become an endorser, surety, or obligor for moneys loaned to or borrowed from the board;
 - (d)~~[(4)]~~ Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;
 - (e)~~[(5)]~~ Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;
 - (f)~~[(6)]~~ Use confidential information acquired during his or her tenure with the retirement system to further his or her own economic interests or that of another person; or
 - (g)~~[(7)]~~ Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the retirement system. The provisions of this subsection shall not prohibit a trustee from serving as an employee of an agency participating in the Kentucky Teachers' Retirement System.
- (2) ***No trustee or employee of the board of trustees, who has served as a trustee or employee of the board on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees for a period of five (5) years following termination of his or her position, except that any such trustee or employee may be a member, employee, or beneficiary of the Teachers' Retirement System.***
- (3) (a) ***No person who is serving as a member of the General Assembly or is a public servant as defined by subsection (9) of Section 83 of this Act shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees, except that any such trustee or public servant may be a member, employee, or beneficiary of the Teachers' Retirement System.***

- (b) *No person who was serving as a member of the General Assembly on or after July 1, 2017, or was serving as a public servant as defined by subsection (9) of Section 83 of this Act on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board of trustees for a period of five (5) years following termination of his or her position, except that any such member or public servant may be a member, employee, or beneficiary of the Teachers' Retirement System.*

➔Section 49. KRS 161.470 is amended to read as follows:

- (1) The membership of the retirement system shall consist of all new members, all present teachers, and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29. The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.
- (2) Service credit shall be forfeited upon withdrawal. If a member again enters service it shall be as a new member, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and reestablish his service credit as provided in subsection (3) of this section.
- (3) Effective July 1, 1988, and thereafter, an active contributing member of the retirement system with contributing service equal to one (1) year may regain service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit. *Service credit regained pursuant to this subsection on or after January 1, 2019, shall not be used to determine the date the individual purchasing the service became a member of the Teachers' Retirement System.*
- (4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.
- (5) Membership in the retirement system shall be terminated:
 - (a) By retirement for service;
 - (b) By death;
 - (c) By withdrawal of the member's accumulated **account balance**~~[contributions]~~;
 - (d) When a member, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years; or
 - (e) For persons hired on or after August 1, 2000, when a member is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment as provided in subparagraphs 1. and 2. of this paragraph.
 1. Notwithstanding any provision of law to the contrary, a member hired on or after August 1, 2000, who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment shall forfeit rights and benefits earned under the retirement system, except for the return of his accumulated contributions and interest credited on those contributions.
 2. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefits shall be forfeited.

Except for paragraph (e) of this subsection, upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of these funds at any time. The terminated service shall be reinstated, if not withdrawn by the member, in the event that the member returns to active contributing service.

- (6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the member return all of his accumulated **account balance**~~[contributions with regular interest]~~, including any payments made by the member to the state accumulation fund, but the member shall have no claim on any contributions made by the state *or employer* with a view to his retirement, *except as provided by Section 43 of this Act*, or to contributions made to the medical insurance fund. If the member is eligible for an immediate

service retirement allowance as provided in KRS 161.600, no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for Social Security benefits or the member elects to withdraw part or all of his service for the purpose of obtaining credit in another retirement plan. Requests for refund of contributions by the member must be filed on forms prescribed by the Teachers' Retirement System and the employer shall be financially responsible for all information that is certified on the prescribed form. A member may not withdraw any part of his or her **accumulated account balance in contributions to** the retirement system except as provided by this subsection.

- (7) Except as provided in KRS 161.520 and 161.525, in case of death prior to retirement, the board of trustees shall pay to the estate of the deceased member, unless a beneficiary was otherwise applicably designated by the deceased member, then to the beneficiary, all of his accumulated **account balance in contributions, with regular interest**, including any payments made by the member to the state accumulation fund, but the estate or beneficiary shall have no claim on any contributions made by the state **or employer** with a view to the retirement of the member, **except as provided by Section 43 of this Act**, or to contributions made to the medical insurance fund.
- (8) Any active contributing member of the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, or the Judicial Retirement System may use service, under that retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

➔Section 50. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a primary beneficiary or two (2) or more cobeneficiaries to receive any benefits accruing from the death of the member. A contingent beneficiary may be designated in addition to the primary beneficiary or cobeneficiaries. The member may name more than one (1) contingent beneficiary. Any beneficiary designation made by the member, including the estate should the estate become the beneficiary by default, shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except in the event of subsequent marriage or divorce. Subsequent marriage by the member shall void the primary beneficiary and any cobeneficiary designation, even that of a trust, and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to marriage designates another beneficiary. A final divorce decree shall terminate an ex-spouse's status as either primary beneficiary, cobeneficiary, or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary beneficiary, cobeneficiary, or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's **accumulated account balance in contributions to** the retirement system as provided under KRS 161.470(7). A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section. The provisions of this section shall not apply to any account from which a member is drawing a retirement allowance or to the life insurance benefit available under KRS 161.655.

➔Section 51. KRS 161.500 is amended to read as follows:

- (1) At the close of each fiscal year, the retirement system shall add service credit to the account of each member who made contributions to his or her account during the year. Members shall be entitled to a full year of service credit if their total paid days were not less than one hundred eighty (180) days of a one hundred eighty-five (185) day contract for a regular school or fiscal year. In the event **an individual who became** a member **prior to January 1, 2019**, is paid for less than one hundred eighty (180) days, the member may purchase credit according to administrative regulations established by the board of trustees. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Members who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1.
- (2) Members who are employed and paid for less than the number of days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. Such credit shall be based upon the number of days employed and the number of days in the member's annual employment agreement or normal employment year.

- (3) Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the member is employed during that year.
- (4) No service credit shall be granted in the Teachers' Retirement System for service that has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

➔Section 52. KRS 161.507 is amended to read as follows:

- (1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994, *the provisions of this section as applicable*, and ~~the~~^{to} administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.
- (2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.
- (3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.
- (4) (a) *An individual who became a member prior to January 1, 2019, who desires to receive*~~receiving~~ retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall pay to the retirement system the full actuarial cost of the service credit purchased as provided under KRS 161.220(22). These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.
- (b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid. *Members participating in the hybrid cash balance plan as provided by Section 43 of this Act who make the regular member contribution required by this paragraph, shall receive employer credits for the period of service purchased.*
- (5) An active contributing member of the Teachers' Retirement System *who became a member of the system prior to January 1, 2019*, may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. Notwithstanding any other statute, regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the system at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or in lump

sum. The member shall pay the full actuarial cost of this service in the military reserves or the National Guard as provided in KRS 161.220(22). Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

➔Section 53. KRS 161.515 is amended to read as follows:

- (1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position on a full-time basis, which would be covered if in Kentucky.
- (2)
 - (a) An active contributing member who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. All members who elect to purchase this service shall pay to the retirement system the full actuarial cost as provided under KRS 161.220(22). For each year of which the retirement system shall accept payment, one (1) year of service credit shall be given. For members who purchased this service under the cost formula as it existed under this subsection on June 30, 2005, this credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.
 - (b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit.
 - (c) A member having service referred to in subsection (2)(a) or (2)(b) of this section who purchased this service under the cost formula as it existed under those subsections on June 30, 2005, may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.
- (3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.
- (4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.1-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.
- (5) Service purchased under this section by members who at the time of purchase are employed by employers other than those described in KRS 161.220(4)(b) or (n) shall be credited, as described in KRS 161.620(1)(a) and (b), with a retirement factor of two and one-half percent (2.5%) for each year of service that was originally performed on or after July 1, 1983, and two percent (2.0%) for each year of service performed before July 1, 1983. Service purchased under this section by members who at the time of purchase are employed by employers described in KRS 161.220(4)(b) or (n) shall be credited, as described in KRS 161.620(1)(a), with a retirement factor of two percent (2.0%) for each year of service, regardless of when the service was performed.
- (6) ***Effective January 1, 2019, this section does not apply to individuals who become members on or after January 1, 2019.***

➔Section 54. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

- (1) Where there is a surviving widow or widower who is named as the primary beneficiary of the member's retirement account, the benefit shall be:
 - (a) One hundred eighty dollars (\$180) per month with no restriction on other income;
 - (b) Two hundred forty dollars (\$240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars (\$6,600) per year or five hundred fifty dollars (\$550) per month; or
 - (c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1) *or subsection (6) of Section 43 of this Act, as applicable*. In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision;
- (2)
 - (a) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars (\$200) per month in the case of one (1) child, three hundred forty dollars (\$340) per month in the case of two (2) children, four hundred dollars (\$400) per month in the case of three (3) children, and four hundred forty dollars (\$440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section.
 - (b) Notwithstanding any provision of law to the contrary, the surviving spouse may elect to receive a lump-sum refund of the member's *accumulated* account *balance* in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section only if the surviving spouse is designated as the primary beneficiary and:
 1. Is a biological or adoptive parent of all children eligible for a benefit under this subsection and has not had his or her parental rights terminated; or
 2. Has been appointed as legal guardian of all of the children eligible under paragraph (a) of this subsection.
 - (c) To elect a lump-sum refund of the member's *accumulated* account *balance* under paragraph (b) of this subsection, the surviving spouse who is designated as the primary beneficiary must sign a waiver on forms prescribed by the retirement system of his or her rights and the member's children's rights to the survivorship benefits payable under this subsection and subsection (1) of this section. The surviving spouse shall not waive the survivorship benefits available under this subsection or subsections (1) and (6) of this section if any of the member's children have attained age eighteen (18) or older unless all of those children consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection;
- (3)
 - (a) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars (\$200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(14). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.
 - (b) Notwithstanding any provision of law to the contrary, the surviving spouse shall not elect to receive a lump-sum refund of the member's *accumulated* account *balance* in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section unless:
 1. The surviving spouse is designated as the primary beneficiary;

2. The surviving spouse has been appointed by the court as guardian, conservator, or other fiduciary with sufficient general or specific authority to waive the survivorship benefits available under this subsection for any child or children age eighteen (18) or older who have been adjudicated incompetent to make decisions on their own behalf by a court of law; and
 3. Any child or children age eighteen (18) or older who are mentally competent to make decisions on their own behalf as attested to by two (2) physicians' statements consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection.
- (c) If eligible to elect a lump-sum refund of the member's **accumulated** account **balance**, the surviving spouse shall sign a waiver on forms prescribed by the retirement system of his or her rights and the member's children's rights to the survivorship benefits payable under this subsection and subsections (1) and (2) of this section;
- (4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars (\$200) per month for one (1) parent or two hundred ninety dollars (\$290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member;
 - (5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars (\$165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period;
 - (6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency;
 - (7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary;
 - (8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable;
 - (9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, or in the event that the surviving spouse elects not to receive survivorship benefits on his or her own behalf or on behalf of any of the member's children as permitted under subsections (2) and (3) of this section, the board of trustees shall pay to the estate or the designated beneficiaries of the deceased member a refund of his accumulated **account balance**~~contributions~~ as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated **account balance**~~contributions~~ at the time of death, the board of trustees shall pay to the estate or designated beneficiaries of the deceased member the balance of the accumulated **account balance**~~contributions~~;
 - (10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits; and
 - (11) Benefits under subsections (2) and (3) of this section shall apply to a child who is a legally adopted survivor at the time of the death of the member. This provision shall be retroactive to include a child who was born after January 1, 1990, and is a legally adopted survivor of a member whose death occurred prior to July 15, 2008.

➔Section 55. KRS 161.522 is amended to read as follows:

Upon the death of a member retired for disability who had a minimum of twenty-seven (27) years of service at the time of death, except as provided in KRS 161.661(6), the spouse, if named as the primary beneficiary of the member's account, shall be entitled to elect, in lieu of a refund of the member's account, an annuity actuarially equivalent to the annuity that would have been paid to the deceased member had retirement for service been effective on the day immediately preceding the member's death. This option shall be available only during the entitlement period described under KRS 161.661(3) and (4) prior to the recalculation of the member's disability allowance under KRS 161.661(5). In selecting this right, the spouse shall be limited to selecting an option providing a straight life annuity with refundable balance or a term certain option. There shall be a monthly minimum allowance of three hundred dollars (\$300) as the basic straight life annuity. This section applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1988, and to surviving spouses of members who die on or after July 1, 1984, except that the member shall have been retired for disability with a minimum of thirty (30) years of service if either of these two (2) conditions were met prior to July 1, 1990. ***This section does not apply to individuals who become members on or after January 1, 2019.***

➔Section 56. KRS 161.525 is amended to read as follows:

- (1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as the primary beneficiary of the member's retirement account, or in the absence of an eligible spouse a legal dependent of the member, if named as the primary beneficiary, shall be entitled to elect, in lieu of a refund of the member's ***accumulated*** account ***balance*** or benefits provided in KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had retirement been effective on the day immediately preceding the member's death. Under the provisions of KRS 61.680, benefits shall be processed as if the member retired for service. In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life annuity with refundable balance or a term certain option. A spouse may receive the annuity provided by this section at the same time as children are qualifying for survivors' benefits under the provisions of KRS 161.520; however, a legal dependent, other than a spouse, may not receive these payments if children have qualified for benefits under that section.
- (2) A spouse qualifying for an annuity under subsection (1) of this section may defer the payments in order to reduce the actuarial discounts to be applied due to age.
- (3) Upon death of a member in active contributing status at the time of his death, who had a minimum of twenty-seven (27) years of service, the spouse, if named as the primary beneficiary of the member's account shall be entitled to a monthly minimum allowance of three hundred dollars (\$300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986. ***This subsection does not apply to individuals who become members on or after January 1, 2019.***

➔Section 57. KRS 161.540 is amended to read as follows:

- (1) (a) Effective ***January 1, 2019***~~[July 1, 1988]~~, each individual who ***is a contributing nonuniversity***~~[first becomes a]~~ member~~[before July 1, 2008]~~, shall contribute to the retirement system ***twelve and eight hundred fifty-five thousandths percent (12.855%)***~~[nine and eight hundred fifty-five thousandths percent (9.855%)]~~ of annual compensation, ***of which:***
 1. ***Nine and one hundred five thousandths percent (9.105%) of annual compensation shall be used to fund pension benefits; and***
 2. ***Three and three-quarters percent (3.75%) of annual compensation shall be used to fund retiree health benefits***~~[except that university employees who participate in the Kentucky Teachers' Retirement System shall contribute eight and three hundred seventy five thousandths percent (8.375%) of annual compensation].~~
- (b) ***Effective January 1, 2019, each individual who is a contributing university member, shall contribute to the retirement system ten and four-tenths percent (10.4%) of annual compensation, of which:***
 1. ***Seven and six hundred twenty-five thousandths percent (7.625%) of annual compensation shall be used to fund pension benefits; and***
 2. ***Two and seven hundred seventy-five thousandths percent (2.775%) of annual compensation shall be used to fund retiree health benefits.***~~[Each individual who first becomes a member on or after July 1, 2008, shall contribute to the retirement system ten and eight hundred fifty five thousandths percent (10.855%) of annual compensation, except that university employees who~~

~~participate in the Kentucky Teachers' Retirement System shall contribute nine and three hundred seventy five thousandths percent (9.375%) of annual compensation.]~~

- (c) ~~[1. Effective July 1, 2010, members shall, in addition to those contributions required under paragraphs (a) and (b) of this subsection, make a contribution to the medical insurance fund established under KRS 161.420(5) according to the following schedule:~~

- ~~a. For each individual who first became a member of the retirement system before July 1, 2008, a total amount of annual compensation equal to and effective on:~~

~~July 1, 2010.....Twenty five hundredths percent (.25%)~~

~~July 1, 2011.....One half percent (0.50%)~~

~~July 1, 2012.....One percent (1.0%)~~

~~July 1, 2013.....One and one half percent (1.5%)~~

~~July 1, 2014.....Two and twenty five hundredths percent (2.25%)~~

~~July 1, 2015,~~

~~and thereafter.....Three percent (3.0%) for a total of three and
seventy five hundredths percent (3.75%)~~

~~when added to the contributions required
under KRS 161.420(5)(a); or~~

- ~~b. For each individual who first becomes a member of the retirement system on or after July 1, 2008, a total amount of annual compensation equal to and effective on:~~

~~July 1, 2013.....One half percent (0.50%)~~

~~July 1, 2014.....One and twenty five hundredths percent (1.25%)~~

~~July 1, 2015,~~

~~and thereafter.....Two percent (2.0%) for a total of three and
seventy five hundredths percent (3.75%)~~

~~when added to the contributions required
under KRS 161.420(5)(a)~~

- ~~2. Notwithstanding subparagraph 1. of this paragraph, members employed by any employer identified in KRS 161.220(4)(b) or (n) shall contribute, as a percentage of their total annual compensation, the actuarial equivalent of the percentage contributed by members under subparagraph 1. of this paragraph, not to exceed the percentages established under the schedules set forth in subparagraph 1. of this paragraph. The actuarial equivalent to be contributed under this subsection shall be determined by the retirement system's actuary. These contributions shall be in lieu of those contributions required under subparagraph 1. of this paragraph.~~

- ~~3.]When the medical insurance fund established under KRS 161.420(5) achieves a sufficient prefunded status as determined by the retirement system's actuary, the board of trustees shall recommend to the General Assembly that the contributions required under *paragraph [subparagraphs] (a)2. or (b)2. of this subsection*~~[1. and 2. of this paragraph]~~ shall, in an actuarially accountable manner, be either decreased, suspended, or eliminated.~~

- (d) Payments authorized by statute that are made to retiring members, who became members of the system before July 1, 2008, for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the

employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.

- (2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

➔Section 58. KRS 161.545 is amended to read as follows:

- (1) (a) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees if contributions were not otherwise made as a result of the service. ***This paragraph does not apply to members who retired on or after January 1, 2019, and are reemployed on or after January 1, 2019.***
- (b) Members placed on leave of absence during a period of full-time employment as defined in KRS 161.220(21) may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).
- (2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence during a period of full-time employment as defined in KRS 161.220(21) since July 1, 1964, for reasons of health as defined under the Federal Family Medical Leave Act of 1993, 29 U.S.C. secs. 2601 et seq., child rearing, or to improve their educational qualifications, and did not purchase the leave of absence as provided in subsection (1) of this section may obtain credit for the leave of absence as provided under the administrative regulations of the board of trustees and under the following conditions:
- (a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence or by other documentation that was generated contemporaneously with the leave that is determined by the retirement system to reasonably establish that a leave of absence was granted; and
- (b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.
- (c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.
- (3) Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).
- (4) Notwithstanding any other provisions of this section to the contrary, purchase of service credit under subsection (2) of this section:
- (a) For individuals who become members on or after July 1, 2008, ***but prior to January 1, 2019***, shall be purchasable only at the full actuarial cost; ***and***
- (b) ***Shall not apply to individuals who become members on or after January 1, 2019.***

➔Section 59. KRS 161.5465 is amended to read as follows:

On or after August 1, 1998, a member of the Teachers' Retirement System in active contributing status who has a minimum of twenty (20) years of service credit may purchase up to a maximum of five (5) years of service credit that is not otherwise purchasable under any of the provisions of KRS 161.220 to 161.716 and that meets the definition of nonqualified service as provided in Section 1526 of the Federal Taxpayer Relief Act of 1997. The member shall pay the full actuarial cost of the service credit as provided in KRS 161.220(22). The payment shall not be picked up by

the employer as described in KRS 161.540(2), and the member's payment shall be credited to the member's contribution account and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by installment payments as provided in KRS 161.597. Notwithstanding any other statute to the contrary, the Kentucky Teachers' Retirement System shall recognize nonqualified service credit purchased with another retirement system only to the extent that the member had an equivalent number of full months of active employment in the position covered by the other retirement system during the period that the nonqualified service was purchased. This section shall not apply to:

- (1) Individuals who become members on or after July 1, 2008, **but prior to January 1, 2019**, except that a teacher of a local school board may purchase up to ten (10) months of service under this section if the teacher is retiring and has completed the prior school year with at least twenty-six (26) years and two (2) months of service but less than twenty-seven (27) years of service; **and**
- (2) **Individuals who become members on or after January 1, 2019.**

➔Section 60. KRS 161.547 is amended to read as follows:

An individual who became a member of the retirement system ***prior to January 1, 2019, who has***~~having~~ service as a Kentucky legislator which is not credited by any retirement system administered by the Commonwealth of Kentucky may present such service, not to exceed four (4) years, for credit in the retirement system by paying the full actuarial cost of the service as determined by the system actuary. The member may purchase all or part of his service as a legislator, but no less than one (1) year of service. The entire payment shall be placed in the teachers' saving fund.

➔Section 61. KRS 161.548 is amended to read as follows:

An individual who became a member of the Teachers' Retirement System ***prior to January 1, 2019***, who is in an active contributing status with the system, and who was formerly employed in a regional community service program for mental health and individuals with an intellectual disability, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system, may obtain credit for the period of his service in the regional community program for mental health and individuals with an intellectual disability by paying to the Teachers' Retirement System the full actuarial cost of the service credit purchased, as provided in KRS 161.220(22). The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

➔Section 62. KRS 161.549 is amended to read as follows:

An individual who became a member of the Teachers' Retirement System ***prior to January 1, 2019***, who is in an active contributing status with the system, and who was formerly employed by a Federal Head Start agency, operated under 42 U.S.C. secs. 9831 et seq., which does not participate in a state-administered retirement system, may obtain credit for the period of the member's service in the Head Start program by purchasing this service credit under the same conditions that out-of-state service credit may be purchased under KRS 161.515. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment. The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

➔Section 63. KRS 161.550 is amended to read as follows:

- (1) (a) ~~{Beginning with July 1, }~~***Effective July 1, 2020, and for each fiscal year occurring thereafter***, each employer, except as provided under KRS 161.555, shall contribute annually to the ~~{Kentucky}~~ Teachers' Retirement System a ***base permanent employer contribution***~~{amount}~~ equal to:
 1. ***Thirteen and one hundred five thousandths percent (13.105%) of the total annual compensation of nonuniversity members it employs, of which:***
 - a. ***Twelve and three hundred fifty-five thousandths percent (12.355%) of the total annual compensation shall be used to fund pension and life insurance benefits;***~~{that contributed by members of the retirement system it employs less the amount contributed by employees under KRS 161.540(1)(c), plus an additional three and one fourths percent (3.25%) of the total of salaries of members of the retirement system it employs to discharge the system's unfunded obligations with interest assumed by the state}~~ and
 - b. ***Three-quarters of a percent (0.75%) of annual compensation shall be used to provide funding to the medical insurance fund as provided under KRS 161.420(5). If the board of***

trustees establishes a trust fund under 26 U.S.C. sec. 115, the board may deposit the employer contribution *provided in this subparagraph* ~~dedicated to retiree health~~ in that trust fund~~}; and~~

2. *Thirteen and sixty-five hundredths percent (13.65%) of the total annual compensation of university members of the retirement system it employs, of which:*
 - a. *Ten and eight hundred seventy-five thousandths percent (10.875%) of the total annual compensation shall be used to fund pension and life insurance benefits; and*
 - b. *Two and seven hundred seventy-five thousandths percent (2.775%) of annual compensation shall be used to provide funding to the medical insurance fund as provided under subsection (5) of Section 47 of this Act. If the board of trustees establishes a trust fund under 26 U.S.C. sec. 115, the board may deposit the employer contribution provided in this subparagraph in that trust fund.*
- (b) *Effective July 1, 2020, and for each year thereafter, each employer shall pay the additional contributions needed to fund the Teachers' Retirement System pension fund and life insurance fund on an actuarially sound basis as determined by the system's actuarial valuation completed in accordance with Section 46 of this Act and as specified by this section. The amount payable under the provisions of this paragraph shall:*
 1. *Be in addition to the amounts provided under paragraph (a)1.a. and (a)2.a. of this subsection;*
 2. *Not include the cost or funding of benefits established by KRS 161.553; and*
 3. *Shall be prorated to each employer based upon the individual employer's average percentage of the total compensation reported by all employers in the system in fiscal years 2014-2015, 2015-2016, and 2016-2017, except that the amount shall be paid by state appropriation only for those employers who cover memberships specified by subsection (4)(a) of Section 45 of this Act.*
- (c) *The contributions payable under paragraphs (a)1.a., (a)2.a., and (b) of this subsection by employers and the state shall be equal to the sum of the "normal cost" contribution and the "actuarially accrued liability contribution," except that the minimum contribution to fund pension and life insurance benefits shall not be less than the combined employer contribution to fund pension and life insurance benefits specified by paragraph (a) of this subsection and subsection (3) of this section.*
- (d) *For purposes of this subsection, the normal cost contribution shall be computed as a percentage of payroll and shall be an annual amount that is sufficient when combined with employee contributions to fund pension and life insurance benefits earned during the year, including costs for members participating in the hybrid cash balance plan.*
- (e) *For purposes of this subsection, the actuarially accrued liability contribution shall be an annual amount that is sufficient to amortize the total unfunded actuarially accrued liability over a closed period of thirty (30) years using:*
 1. *The level percentage of payroll amortization method in the 2018 actuarial valuation with a payroll growth assumption of two and six hundred twenty-five thousandths percent (2.625%);*
 2. *The level percentage of payroll amortization method in the 2019 actuarial valuation with a payroll growth assumption of one and seventy-five hundredths percent (1.75%);*
 3. *The level percentage of payroll amortization method in the 2020 actuarial valuation with a payroll growth assumption of eight hundred seventy-five thousandths percent (0.875%); and*
 4. *The level dollar amortization method in the 2021 actuarial valuation and for each valuation occurring thereafter.*

The amortization period shall be reset to a new thirty (30) year closed period beginning with the 2018 actuarial valuation.
- (f) *Effective with the 2018 actuarial valuation, which determines the employer rates payable on or after July 1, 2020, the employer contributions computed under this section shall be determined using:*
 1. *The entry age normal cost funding method;*
 2. *An asset smoothing method that smooths gains and losses over a five (5) year period; and*

3. *Other funding methods and assumptions established by the board in accordance with Section 46 of this Act.*

- (2) In addition to the required contributions in subsection (1) of this section, the state shall contribute annually to the Kentucky Teachers' Retirement System a percentage of the total salaries of the state-funded and federally funded members it employs to pay the cost of health insurance coverage for retirees who are not eligible for Medicare and who retire on or after July 1, 2010, less the amounts that are otherwise required to be paid by the retirees under KRS 161.675. The Kentucky Teachers' Retirement System may also request an additional amount necessary to ensure payment of medical insurance costs through fiscal year 2015-2016 which shall not be subject to the limitations of paragraph (c) of this subsection. The board shall deposit funds in the medical insurance fund unless the board of trustees has established a trust fund under 26 U.S.C. sec. 115 for this purpose. In this case, the board may deposit the employer contribution in that trust fund. This contribution shall be known as the state medical insurance fund stabilization contribution. The percentage to be contributed by the state under this subsection:
- (a) Shall be determined by the retirement system's actuary for each biennial budget period;
 - (b) May be suspended or adjusted by the General Assembly if in its judgment the welfare of the Commonwealth so demands; and
 - (c) Shall not exceed the lesser of the actual benefit cost for retirees not eligible for Medicare who retire on or after July 1, 2010, or the amount contributed by employers under subsection (3) of this section.
- (3) ~~Effective July 1, 2010,~~ **Effective January 1, 2019**, all **employers who employ nonuniversity members** ~~local boards of education, agencies, and organizations identified in KRS 161.220(4), with the exception of those institutions identified under paragraphs (b) and (n) of KRS 161.220(4),~~ shall make a contribution for each payroll on behalf of their active employees who participate in the ~~Kentucky~~ Teachers' Retirement System in an amount equal to:
- (a) **Three percent (3%)** ~~the percentage~~ of payroll of those active employees. **The contribution specified by this paragraph that is paid on or after January 1, 2019, shall be used to fund retiree health benefits; and**
 - (b) **Two percent (2%) of payroll for those members who participate in the hybrid cash balance plan as provided by Section 43 of this Act. The amount of funding provided by this paragraph shall be used to offset any additional costs paid under subsection (1)(b) of this section.** ~~According to the schedule as follows:~~
- | | |
|-----------------------------------|--|
| July 1, 2010..... | Twenty five hundredths percent (.25%) |
| July 1, 2011..... | One half percent (.50%) |
| July 1, 2012..... | One percent (1.0%) |
| July 1, 2013..... | One and one half percent (1.5%) |
| July 1, 2014..... | Two and twenty five hundredths percent (2.25%) |
| July 1, 2015, and thereafter..... | Three percent (3.0%) |
- (4) ~~Institutions identified under KRS 161.220(4)(b) and (n) shall make a contribution for each payroll on behalf of their active employees who participate in the Kentucky Teachers' Retirement System of an amount equal to a percentage of these employees' payroll that is actuarially equivalent to the percentage contributed by local boards of education, agencies, and organizations identified under subsection (3) of this section, not to exceed the percentages established under the schedule set forth in subsection (3) of this section. The actuarial equivalent to be contributed under this subsection shall be determined by the Kentucky Teachers' Retirement System's actuary.~~
- (5) ~~When the medical insurance fund established under KRS 161.420(5) achieves a sufficient prefunded status as determined by the Kentucky Teachers' Retirement System's actuary, the board of trustees shall recommend to the General Assembly that the contributions required under subsections (3) and (4) of this section shall, in an actuarially accountable manner, be either decreased, suspended, or eliminated.~~
- (6) ~~Each employer shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155; 161.168; 161.507(4); 161.515; 161.545; 161.553; 161.605; 161.612; and 161.620(1), (3), (5), (6), and (7). In the event~~

an annual appropriation *for the amounts specified by subsection (1)(a)1. of this section* is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. Employer contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and these contributions shall be considered deferred compensation to the members.

➔Section 64. KRS 161.568 is amended to read as follows:

- (1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an election to participate in the optional retirement plan within thirty (30) days after their employment date. This election shall be irrevocable except as otherwise provided in this subsection. No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public postsecondary education institution which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. All elections made under this subsection shall be in writing and shall be filed with the appropriate officer of the employer institution. Persons who originally elected to participate in the optional retirement plan may later change their elections only as follows:
 - (a) Any person otherwise eligible for membership in the Kentucky Teachers' Retirement System may irrevocably elect one (1) time during his or her lifetime to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System. This election to change from the optional retirement plan to Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the system. Any person exercising this election shall not be entitled to purchase as service credit in the Kentucky Teachers' Retirement System any prior service with his or her postsecondary education institution employer;
 - (b) Any person otherwise eligible for membership in the Kentucky Teachers' Retirement System who previously elected to participate in the optional retirement plan may irrevocably elect one (1) time within his or her first six (6) years and six (6) months of continuous service in any one (1) or more of the institutions identified in KRS 161.220(4)(b), to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System and also become eligible to purchase as service credit his or her prior service with his or her postsecondary education employer. This election to change from the optional retirement plan to the Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the retirement system. Persons electing to change from the optional retirement plan to the Kentucky Teachers' Retirement System may purchase service credit only for their prior years of service for a postsecondary education institution identified in KRS 161.220(4)(b) during which they participated in the optional retirement plan. The election to purchase prior service as service credit shall be received in the retirement system's office on forms prescribed by the retirement system within the six (6) year and six (6) month period provided to make the election to begin participation in the Kentucky Teachers' Retirement System. The cost of purchasing this service shall be calculated by adding both the employer and member contributions that would have been paid to the Kentucky Teachers' Retirement System had the individual purchasing this service participated in the Kentucky Teachers' Retirement System instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System by the postsecondary education institution as provided by KRS 161.569(5), or KRS 161.569(5)(a)2. as it existed on June 30, 2007. Interest at Kentucky Teachers' Retirement System's actuarially assumed rate shall be paid on these net contributions by the person electing to change to the Kentucky Teachers' Retirement System from the optional retirement plan. These payments shall not be picked up as described in KRS 161.540(2). Persons who elect to change from the optional retirement plan to the Kentucky Teachers' Retirement System may elect to purchase as service credit, beginning with the most recent years, any portion of their prior years of service during which time they participated in the optional retirement plan, or none of those years. Members may purchase service credit for prior years of service by rolling over funds from their optional retirement plan account as provided under KRS 161.5461, or by rolling over or transferring other plan funds as permitted by the rules set forth in the Internal Revenue Code, or by making an after-tax lump-sum cash payment. *This paragraph does not apply to individuals who become members on or after January 1, 2019;*

- (c) Effective July 1, 2008, persons otherwise eligible for membership in the Kentucky Teachers' Retirement System may irrevocably elect one (1) time to change their election and to prospectively participate in the Kentucky Teachers' Retirement System and purchase service credit for their prior years of service during which they participated in the optional retirement plan. This election shall be filed in writing with the Kentucky Teachers' Retirement System no later than December 31, 2008. Persons who change their election prior to July 1, 2008, to prospectively participate in the Kentucky Teachers' Retirement System may purchase service credit for their prior years of service during which they participated in the optional retirement plan. The purchase of prior years of service under this paragraph shall be subject to the same conditions and purchase costs as described in paragraph (b) of this subsection, except that the election to purchase service credit shall be on file with the Kentucky Teachers' Retirement System no later than December 31, 2008. ***This paragraph does not apply to individuals who become members on or after January 1, 2019;*** and
 - (d) Persons electing to change to the Kentucky Teachers' Retirement System under paragraphs (a), (b), and (c) of this subsection shall be eligible to participate, based upon their age and allowable service credit, in the disability, survivorship, and medical insurance programs under the conditions and in the degree as they exist on the date that they file their election with the retirement system, but shall be subject to any changes to those programs from that date forward, including any changes that may affect their eligibility for or degree of participation in those programs. Prior service purchased as service credit as permitted under paragraphs (b) and (c) of this subsection shall not be considered for meeting eligibility requirements or determining the extent of participation in these programs. Persons electing to change to the Kentucky Teachers' Retirement System shall not be eligible for the survivorship or disability programs based upon medical conditions that existed prior to the filing of their elections.
- (2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, the employee shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

➔Section 65. KRS 161.580 is amended to read as follows:

- (1) The board of trustees shall provide for the maintenance of an individual account for each member showing the amount of the member's ***accumulated account balance***~~[contribution and interest accumulations]~~. Such individual accounts shall be identified in the records of the system by name, date of birth, and Social Security number. It shall collect and keep in convenient form such data as is necessary for the preparation of the required mortality and service tables and for the compilation of such other information as is required for the actuarial valuation of the assets and liabilities of the various funds of the retirement system.
- (2) The board shall prepare and furnish to all active contributing members a summary plan description, written in a manner calculated to be understood by the average member or annuitant, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the Teachers' Retirement System. The board may furnish the summary plan description by posting it on the retirement system's Web site.
- (3) The summary plan description shall include:
 - (a) The name of the retirement system, the name and address of the executive secretary, and the name, address, and title of each member of the board of trustees;
 - (b) The name and address of the person designated for the service of legal process;
 - (c) The system's requirements for participation and benefits;
 - (d) A description of retirement formulas for normal, early, and disability retirement, and survivor benefits;
 - (e) A description of the requirements for vesting of pension benefits;
 - (f) A list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;
 - (g) The sources of financing retirement benefits, and statutory requirements for funding;
 - (h) A statement after each actuarial valuation as to whether funding requirements are being met; and
 - (i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.

- (4) The board may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and furnished to active contributing members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.
- (5) The board shall provide to annuitants so much of the summary plan description as they need to understand changes in benefits which apply to them.

➔Section 66. KRS 161.585 is amended to read as follows:

- (1) Each member's or annuitant's account shall be administered in a confidential manner, and specific data regarding a member or annuitant shall not be released for publication, except that:
 - (a) The member or annuitant may authorize the release of his or her account information;
 - (b) The board of trustees may release member or annuitant account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law; or
 - (c)
 - 1. Upon request by any person, the system shall release the following information from the accounts of any member or annuitant of the Kentucky Teachers' Retirement System, if the member or annuitant is a current or former officeholder in the Kentucky General Assembly:
 - a. The first and last name of the member or annuitant;
 - b. The status of the member or annuitant, including but not limited to whether he or she is a contributing member, a member who is not contributing but has not retired, a retiree receiving a monthly retirement allowance, or a retiree who has returned to work following retirement with an agency participating in the system;
 - c. If the individual is an annuitant, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year;
 - d. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive on the first date he or she would be eligible for an unreduced retirement allowance, using his or her service credit, ***accumulated account balance***, and final average salary at the end of the most recently completed fiscal year; and
 - e. The current or last participating employer of the member or annuitant, if applicable.
 - 2. No information shall be disclosed under this paragraph from an account that is paying benefits to a beneficiary due to the death of a member or annuitant.
- (2) The release of information under subsection (1)(c) of this section shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.
- (3) Medical records which are included in a member's or annuitant's file maintained by the Teachers' Retirement System are confidential and shall not be released unless authorized by the member or annuitant in writing or as otherwise provided by law or in response to a lawful subpoena or order issued by a court of law.
- (4)
 - (a) When a subpoena is served upon any employee of the Kentucky Teachers' Retirement System requiring the production of any data, information, or records, it is sufficient if the employee of the Kentucky Teachers' Retirement System charged with the responsibility of being custodian of the original, or his or her designated staff, delivers within five (5) working days by certified mail or by personal delivery to the person specified in the subpoena either of the following:
 - 1. Legible and durable copies of records certified by the employee or designated staff; or
 - 2. An affidavit stating the information required by the subpoena.
 - (b) The production of records or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Teachers' Retirement System unless, after the production of records or an affidavit, a separate subpoena is served upon the retirement system specifically directing the testimony of an employee of the retirement system. When a subpoena is served on any employee of the retirement system requiring the employee to give testimony or produce records for any purpose, in the absence of a

court order requiring the testimony of or production of records by a specific employee, the system may designate an employee to give testimony or produce records upon the matter referred to in the subpoena. The board of trustees may promulgate an administrative regulation for the recovery of reasonable travel and administrative expenses for those occasions when an employee of the retirement system is required to travel from his or her home or office to provide testimony or records. Recoverable expenses may include the wages, salary, and overtime paid to the employee by the retirement system for the period of time that the employee is away from the office. The cost of these expenses shall be borne by the party issuing the subpoena compelling the employee's travel. The board of trustees may also promulgate an administrative regulation establishing a reasonable fee for the copying, compiling, and mailing of requested records.

- (c) The certification required by this subsection shall be signed before a notary public by the employee and shall include the full name of the member or annuitant, the member or annuitant identification number assigned to the member or annuitant by the retirement system, and a legend substantially to the following effect: "The records are true and complete reproductions of the original, microfiche, or electronically stored records which are housed in the retirement system's office. This certification is given in lieu of the undersigned's personal appearance."
 - (d) When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his or her signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove receipt of the affidavit or copies of records.
 - (e) When the affidavit or copies of records are delivered to a party for use in deposition they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending.
 - (f) Upon completion of delivery by the retirement system of copies of records by their deposit in the mail or by their personal delivery to the requesting party, the retirement system shall cease to have any responsibility or liability for the records and their continued maintenance in a confidential manner.
 - (g) Records of the Kentucky Teachers' Retirement System that are susceptible to reproduction may be proved as to foundation, identity, and authenticity without preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this subsection.(h) The provisions of this subsection shall not be construed to prohibit the Kentucky Teachers' Retirement System from asserting any exemption, exception, or relief provided under the Kentucky Rules of Civil Procedure or other applicable law.
- (5) For purposes of this section, "records" includes retirement estimates, affidavits, and other documents prepared by the Kentucky Teachers' Retirement System in response to information requested in a lawful subpoena or order issued by a court of law.

➔Section 67. KRS 161.590 is amended to read as follows:

- (1) At retirement the total service credited to a teacher shall consist of prior and subsequent service rendered by him for which service credit has been allowed.
- (2) Kentucky service, presented at the time of retirement, may not be used in calculating benefits under **Section 43 of this Act**, KRS 161.525, 161.620, or 161.661, if such service has been used to increase benefits in another retirement system, not including Old Age and Survivors Insurance Benefits under the Social Security Administration.
- (3) No service credit shall be added to a member's account after the effective date of retirement for service.

➔Section 68. KRS 161.595 is amended to read as follows:

- (1) Upon service retirement, **an individual who becomes** a member of the Teachers' Retirement System **prior to January 1, 2019**, may obtain credit for all or any part of the service otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of the full actuarial cost of the service credit purchased as defined in KRS 161.220(22). Such payments shall not be picked up, as described in KRS 161.540(2).

- (2) The amount paid under this section shall be considered as accumulated contributions of the individual member.
- (3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

➔Section 69. KRS 161.600 is amended to read as follows:

- (1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:
 - (a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;
 - (b)
 - 1. For an individual who becomes a member before July 1, 2008, attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number; and
 - 2. For an individual who becomes a member on or after July 1, 2008, attainment of age fifty-five (55) years and completion of a minimum of ten (10) years of Kentucky service with an actuarial reduction of the basic retirement allowance of six percent (6%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number;
 - (c) Completion of twenty-seven (27) years of Kentucky service. Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement; or
 - (d) Completion of the necessary years of service under provisions of KRS 61.559(2)(c) if the member is retiring under the reciprocity provisions of KRS 61.680. A member retiring under this paragraph who has not attained age fifty-five (55) shall incur an actuarial reduction of the basic allowance determined by the system's actuary for each year the member's service credit is less than twenty-seven (27).
- (2) Any person who has been a member in Kentucky for twenty-seven (27) years or more and who withdraws from covered employment may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during the member's last full year in covered employment, less any payment received for accrued sick leave or accrued leave from an employer. The member shall be entitled to receive a retirement allowance as provided in KRS 161.620 at any time after withdrawing from covered employment and payment of contributions under this subsection. No member shall make contributions as provided for in this subsection if the member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.
- (3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees Retirement System, or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a), (b), and (c) of this section, provided the service is subsequent to July 1, 1956.
- (4) Upon death, disability, or service retirement, a member's accounts under all state supported retirement systems shall be consolidated, as provided by this section and by KRS 61.680, for the purpose of determining eligibility and amount of benefits, which shall include medical benefits. Upon determination of benefits, each system shall pay the applicable percentage of total benefits. The effective date of retirement under this subsection shall be determined by each retirement system for the portion of the payments that will be made.
- ~~(5)~~~~(4)~~ No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees. A member may withdraw his or her retirement application, postpone his or her effective retirement date, or change his or her retirement option if these elections are made no later than the fifteenth day of the month in which the member has made application for retirement.
- ~~(6)~~~~(5)~~ The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to the member's death.
- (7) *Effective January 1, 2019, subsections (1) to (3) of this section do not apply to individuals who become members of the Teachers' Retirement System on or after January 1, 2019. Individuals who become*

members of the Teachers' Retirement System on or after January 1, 2019, shall receive the retirement benefits prescribed by Section 43 of this Act.

➔Section 70. KRS 161.605 is amended to read as follows:

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

- (1) Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. Nonqualified service credit purchased under the provisions of KRS 161.5465 or elsewhere with any state-administered retirement system shall not be used to meet the thirty (30) year requirement set forth in this subsection. Out-of-state teaching service provided in public schools for kindergarten through grade twelve (12) may count toward the thirty (30) year requirement set forth in this subsection even if it is not purchased as service credit, if the member obtains from his or her out-of-state employer certification of this service on forms prescribed by the retirement system;
- (2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered;
- (3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and the Department of Education to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis;
- (4) Under this section, an employer may employ full-time a number of retired members not to exceed three percent (3%) of the membership actively employed full-time by that employer. The board of trustees may reduce this three percent (3%) cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the three percent (3%) cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, "full-time" means the same as defined by KRS 161.220(21). A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met. A district's written request to exceed its quota shall be submitted no sooner than two (2) weeks after the start of the school year;
- (5) (a) ***Except as provided by subsection (10) of this section,*** a member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will contribute to an account with the retirement system that will be administered independently from and with no reciprocal impact with the member's original retirement account, or any other account from which the member is eligible to draw a retirement allowance.

- (b) *Except as provided by subsection (10) of this section*, a member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under KRS 161.540. The new account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this new account shall be calculated pursuant to KRS 161.620(1)(b). This new account shall not entitle the member to a duplication of the benefits offered under KRS 161.620(7) or 161.675, nor shall this new account provide the benefits offered by KRS 161.520, 161.525, 161.620(3), 161.655, 161.661, or 161.663.
- (c) A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member.
- (d) A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement.
- (e) A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by KRS 161.470;
- (6) The board of trustees may annually, on July 1, adjust the current daily rate of a member's last annual compensation, for each full twelve (12) month period that has elapsed subsequent to the member earning his or her last annual compensation, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. Each annual adjustment shall become part of the member's daily rate base. Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations. Notwithstanding any other provision of law to the contrary, a member retiring from a local school district who returns to work for a local school district under subsection (1) or (2) of this section shall be entitled, without any reduction to his or her retirement allowance or any other retirement benefit, to earn a minimum amount equal to one hundred seventy dollars (\$170) per day;
- (7) (a) A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer.

(b) As an alternative to the separation-from-service requirements in paragraph (a) of this subsection, a retired member who is returning to work for the same employer in a full-time position under subsections (1) and (2) of this section may elect a separation-from-service of not less than two (2) months followed by a forfeiture of the retired member's retirement allowance on a month-to-month basis for each month that the member has separated from service for less than twelve (12) full months. A retired member returning to work for the same employer in a part-time position, or for a different employer in a full-time position, may elect an alternative separation-from-service requirement of at least two (2) months followed by a forfeiture of the member's retirement allowance for one (1) month. During the period that the member forfeits his or her retirement allowance and thereafter, member and employer contributions shall be made to the retirement system as a result of employment in any position subject to membership in the retirement system. The member shall contribute to an account with the retirement system subject to the conditions set forth in subsection (5) of this section. For purposes of measuring the separation-from-service requirements set forth throughout this section, a member's

separation-from-service begins on the first day following the last day of paid employment for the member prior to retirement.

- (c) Failure to comply with the separation-from-service requirements in this subsection voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service;
- (8) (a) Effective July 1, 2004, local school districts may employ retired members in full-time or part-time teaching or administrative positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of this section. Under provisions of this subsection, a local school district may only employ retired members to fill critical shortage positions for which there are no other qualified applicants as determined by the local superintendent. The number of retired members that a local school district may employ under this subsection shall be no more than two (2) members per local school district or one percent (1%) of the total active members employed by the local school district on a full-time basis as defined under KRS 161.220(21), whichever number is greater. Retired members returning to work under this subsection shall be subject to the separation-from-service requirements set forth in subsection (7) of this section. Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall contribute to an account subject to the conditions set forth in subsection (5) of this section. Retired members returning to work under this subsection shall make contributions to the retirement system at the rate provided under KRS 161.540. The employer shall make contributions at the rate provided under KRS 161.550. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members.
- (b) The Department of Education may employ retired members in full-time or part-time teaching or nonteaching positions without the limitations on compensation otherwise required by subsections (1) and (2) of this section to fill critical shortage areas in the schools it operates, including the Kentucky School for the Blind, the Kentucky School for the Deaf, and the Kentucky Virtual High School, and to serve on audit teams. The department shall be subject to the same requirements as local school districts as provided in paragraph (a) of this subsection, except the Kentucky Teachers' Retirement System shall determine the maximum number of employees that may be employed under this paragraph;
- (9) The return to work limitations set forth in this section shall apply to retired members who are returning to work in the same position from which they retired, or a position substantially similar to the one from which they retired, or a position described in KRS 161.046 or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the return to work limitations set forth in this section. The board of trustees shall determine whether employment in a nonteaching position is subject to this subsection;
- (10) (a) ***Notwithstanding the provisions of this section, individuals who retire and begin drawing a retirement allowance from one (1) or more of the systems or plans administered by the Kentucky Retirement Systems, the Teachers' Retirement System, or the Judicial Form Retirement System on or after January 1, 2019, who are reemployed on or after January 1, 2019, with an employer participating in the Teachers' Retirement System shall not be eligible to contribute to or earn benefits in a second retirement account during the period of reemployment. Employers shall be required to pay the employer normal cost for pension benefits established by Section 63 of this Act for any period of full-time reemployment to help pay down the unfunded liability of the Teachers' Retirement System pension fund.***
- (b) The provisions of subsections (1) to (8) of this section are not subject to KRS 161.714;
- (11) Any member retired by reason of service may waive his or her annuity and return to full-time employment in a position covered by the Kentucky Teachers' Retirement System under the following conditions:
 - (a) The member shall receive no annuity payments while employed in a covered position, shall waive his or her medical insurance coverage with the Kentucky Teachers' Retirement System during the period of reemployment, and shall receive the medical insurance coverage that is generally offered by the

member's active employer to the other members of the retirement system employed by the active employer. The member's estate or, if there is a beneficiary applicably designated by the member, then the beneficiary, shall continue to be eligible for life insurance benefits as provided in KRS 161.655. Service subsequent to retirement shall not be used to improve an annuity, except as provided in paragraphs (b) and (c) of this subsection;

- (b) Any member who waives regular annuity benefits and returns to teaching or covered employment shall be entitled to make contributions on the salaries received for this service and have his retirement annuity recalculated as provided in the regular retirement formula in KRS 161.620(1), less any applicable actuarial discount applied to the original retirement allowance due to the election of a joint and last survivor option. Retirement option and beneficiary designation on original retirement shall not be altered by postretirement employment, and dependents and spouses of the members shall not become eligible for benefits under KRS 161.520, 161.525, or 161.661 because of postretirement employment;
 - (c) When a member returns to full-time teaching or covered employment as provided in subsection (b) of this section, the employer is required to withhold and remit regular retirement contributions. The member must be employed full-time for at least one (1) consecutive contract year to be eligible to improve an annuity. The member shall be returned to the annuity rolls on July 1 following completion of the contract year or on the first day of the month following the month of termination of service if full-time employment exceeds one (1) consecutive contract year. Any discounts applied at the time of the original retirement due to service or age may be reduced or eliminated due to additional employment if full-time employment is for one (1) consecutive contract year or longer; and
 - (d) A member retired by reason of service who has been employed the equivalent of twenty-five (25) days or more during a school year under KRS 161.605 may waive the member's retirement annuity and return to regular employment covered by the Kentucky Teachers' Retirement System during that school year a maximum of one (1) time during any five (5) year period, beginning with that school year;
- (12) Retired members may be employed in a part-time teaching capacity by an agency described in KRS 161.220(4)(b) or (n), not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. Retired members may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by an agency described in KRS 161.220(4)(b) or (n) in a position that would otherwise be covered by the retirement system. The return to work provisions set forth in subsections (1) to (8) of this section shall not apply to retired members who return to work solely for an agency described in KRS 161.220(4)(b) or (n). Calculation of the number of days and teaching hours for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service. Any member who exceeds the twelve (12) hour or one hundred (100) day limitations of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding twelve (12) hours, one hundred (100) days, or any apportionment of the two (2) combined;
- (13) When a retired member returns to employment in a part-time teaching capacity or in a nonteaching capacity as provided in subsection (12) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for retired members who return to work under subsection (12) of this section; and
- (14) For retired members who return to work during any one (1) fiscal year in both a position described in KRS 161.220(4)(b) or (n) and in a position described under another provision under KRS 161.220(4), and for retired members who return to work in a position described under KRS 161.220(4)(b) or (n) in both a teaching and an administrative or nonteaching capacity, the board of trustees shall adopt a methodology for a pro rata apportionment of days and hours that the retired member may work in each position.

➔Section 71. KRS 161.612 is amended to read as follows:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions and only

to the extent set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220, excluding those public boards, institutions, and agencies described in KRS 161.220(4)(b) and (n). Members providing part-time and substitute services shall participate in the retirement system as follows:

- (1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600 ***or Section 43 of this Act, as applicable***. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.620 ***or Section 43 of this Act, as applicable***, except that the provisions of KRS 161.620(3) shall not apply. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 ***or Section 43 of this Act, as applicable***, may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470;
- (2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, 161.655, 161.661, and 161.663. The board of trustees may permit members providing part-time or substitute services to participate in other benefits offered by the retirement system by promulgating administrative regulations that establish eligibility conditions for participation in these benefits. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness;
- (3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services;
- (4) Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees Retirement System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less;
- (5) The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees;
- (6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership;~~and~~
- (7) ***Effective January 1, 2019, this section does not apply to any individual who retires on or after January 1, 2019, and is reemployed on or after January 1, 2019; and***
- (8) The provisions of this section are not subject to KRS 161.714.

➔Section 72. KRS 161.615 is amended to read as follows:

- (1) The board of trustees is authorized to implement a limited defined contribution plan for the sole purpose of providing retirement allowance payments for retired members who have been approved by the retirement system for full-time reemployment as provided in KRS 161.605.

- (2) The defined contribution plan shall be administered separately from the regular benefits provided for members of the retirement system, except that the contributions to the plan shall be invested in the same manner as other contributions to the retirement system.
- (3) The provisions of this section apply only to those retired members who were permitted to return to work under the critical shortage provisions of KRS 161.605(7) as they existed on June 30, 2002. The provisions of this section shall not apply to any retired member returning to work on or after July 1, 2002.
- (4) Separate member accounts shall be maintained for participants in this plan which shall reflect the annual contributions made to the participant's account based on the rates and interest levels specified in KRS 161.605.
- (5) When the retiree's reemployment terminates, the total contributions and accrued interest in the participant's account will be paid in a lump-sum payment or on an actuarial straight life monthly basis to the retiree. If the member dies prior to making application for a retirement allowance under this plan, the beneficiary designated by the participant for this plan shall receive a refund of the funds in the account. If there is a remaining balance in the account at the death of the participant after retirement from this plan, it shall be paid to the beneficiary designated by the participant for this benefit.
- (6) Retired members shall be eligible to receive their retirement annuity when approved for reemployment and participation in this plan. Service as a reemployed retiree may not be used in any manner for credit under the regular retirement benefit plans provided by the retirement system.
- (7) *Notwithstanding the provisions of subsections (1) to (6) of this section, any plan established pursuant to this section shall, effective January 1, 2019, be closed to any future employee or employer contributions.*

➔Section 73. KRS 161.620 is amended to read as follows:

- (1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:
 - (a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all **nonuniversity** members ~~[not employed by a state college or university]~~. The annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are **university** members ~~[under the provisions of KRS 161.220(4)(b) or (n)]~~ shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;
 - (b) For individuals who become **nonuniversity** members of the ~~[Kentucky]~~ Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008, ~~[except those persons who become members under KRS 161.220(4)(b) or (n), and]~~ who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become **nonuniversity** members of the ~~[Kentucky]~~ Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008 ~~[except those persons who become members under KRS 161.220(4)(b) or (n)]~~, and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary;
 - (c) The board of trustees may approve for members who initially retire on or after July 1, 2004, and who become **nonuniversity** members before July 1, 2008 ~~[except those persons who are members under KRS 161.220(4)(b) or (n)]~~, a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years.

This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714;
 - (d) For individuals who become **nonuniversity** members of the ~~[Kentucky]~~ Teachers' Retirement System on or after July 1, 2008 ~~[except those persons who become members under KRS 161.220(4)(b) or (n)]~~, the retirement allowance shall be:

1.
 - a. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;
 - b. Two percent (2%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
 - c. Two and three-tenths percent (2.3%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but no more than twenty-six (26) years of service at retirement; or
 - d. Two and one-half percent (2.5%) of the member's final average salary for each year of service if the member has earned greater than twenty-six (26) but no more than thirty (30) years of service at retirement; and
 2. Three percent (3%) of the member's final average salary for each year of service earned in excess of thirty (30) years of service at retirement subject to the same terms and conditions as set forth in paragraph (c)2. of this subsection;
- (e) For individuals who become **university** members of the ~~[Kentucky]~~ Teachers' Retirement System on or after July 1, 2008~~, who are members under KRS 161.220(4)(b) or (n)]~~, the retirement allowance shall be:
1. One and one-half percent (1.5%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;
 2. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
 3. One and eighty-five hundredths percent (1.85%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but less than twenty-seven (27) years of service at retirement; or
 4. Two percent (2%) of the member's final average salary for each year of service if the member has earned twenty-seven (27) or more years of service at retirement; and
- (f) The retirement allowance of a member at retirement, as measured on a life annuity, shall not exceed the member's last yearly salary or the member's final average salary, whichever is the greater amount. For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of KRS 161.220(9) and (10).
- (2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.
 - (3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars (\$400) effective July 1, 2002, and not less than four hundred forty dollars (\$440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection, except the following:
 - (a) Individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008; or
 - (b) Members whose retirement allowance payment is reduced below the minimum allowance as a result of its division in a qualified domestic relations order or any other provision permitted under KRS 161.700.
 - (4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits

of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.

- (5) Effective July 1, 2008, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed three and one-half percent (3.5%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.
- (6) Effective July 1, 2009, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed seven-tenths of one percent (0.7%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.
- (7) Effective July 1, 1990, monthly payments of two hundred dollars (\$200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.
- (8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.
- (9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.
- (10) ***Effective January 1, 2019, subsections (1) to (7) of this section do not apply to individuals who become members of the Teachers' Retirement System on or after January 1, 2019.***

➔Section 74. KRS 161.623 is amended to read as follows:

- (1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active contributing member for unused sick-leave days in accordance with this section.
- (2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620, ***subject to the limitation of subsection (9)(a) of this section***. Notwithstanding any statute to the contrary, sick-leave credit that is accredited under this section or by one (1) of the other state-administered retirement systems shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance from the Kentucky Teachers' Retirement System.
- (3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

- (4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(10) or any other statutory provision.
- (5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.
- (6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.
- (7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(10) shall be based on the full actuarial cost as defined in KRS 161.220(22).
- (8) For an individual who becomes a member on or after July 1, 2008, the maximum amount of unused accumulated sick leave that may be considered for addition to the member's retirement account for purposes of determining the retirement allowance under KRS 161.620 shall not exceed three hundred (300) days ***or the amount specified by subsection (9)(a) of this section.***
- (9) ***Notwithstanding any other provision of KRS 161.220 to 161.716 to the contrary:***
 - (a) ***The maximum amount of sick leave converted to additional service credit under the provisions of this section shall not exceed the service credit based upon the level of sick leave accumulated on December 31, 2018, by a member whose employer participates in the sick leave program authorized by this section; and***
 - (b) ***On or after August 1, 2018, no employers may opt to participate in the sick leave program authorized by this section.***

➔Section 75. KRS 161.630 is amended to read as follows:

- (1)
 - (a) ***An individual who became a member prior to January 1, 2019,*** upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves.
 - (b) ***An individual who is participating in the hybrid cash balance plan as provided by Section 43 of this Act may, before the effective date of retirement, elect to receive his or her accumulated account balance annuitized into a monthly payment under one (1) of the actuarial equivalent payment options approved by the board of trustees.***
 - (c) No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620 ***or subsection (7)(a) of Section 43 of this Act, as applicable.*** This section does not apply to disability allowances as provided in KRS 161.661(1).
- (2) The retirement option chosen by a retiree at the time of service retirement shall remain in force unless the retiree ***became a member prior to January 1, 2019, and*** elects to make a change under the following conditions:
 - (a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement that provides continuing benefits to a spousal beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or
 - (b) Following marriage or remarriage, or the death of the designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.
- (3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the life annuity with refundable balance or the predetermined years certain and life thereafter option. A member may remove a beneficiary at any time, but shall not designate a substitute beneficiary. If a member elects to remove a beneficiary, the member's retirement allowance shall not change regardless of the retirement option selected by the member, even if the removed beneficiary predeceases the member.
- (4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

➔Section 76. KRS 161.655 is amended to read as follows:

- (1) Effective July 1, 2000, the Teachers' Retirement System shall *for those individuals who became members prior to January 1, 2019*:
 - (a) Provide a life insurance benefit in a minimum amount of five thousand dollars (\$5,000) for its members who are retired for service or disability. This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system; and
 - (b) Provide a life insurance benefit in a minimum amount of two thousand dollars (\$2,000) for its active contributing members. This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.
- (2) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary. Any beneficiary designation made by the member, including the estate should the estate become the beneficiary by default, shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent marriage or divorce. A valid marriage license shall terminate any previously designated beneficiary, even that of a trust, and establish the spouse as beneficiary unless, subsequent proof of the marriage, the member or retired member redesignates someone other than the new spouse as the beneficiary. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.
- (3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.
- (4) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.
- (5) Upon the death of a member of the Teachers' Retirement System, the life insurance provided pursuant to subsection (1) of this section may be assigned by the designated beneficiary to a bank or licensed funeral home.

➔Section 77. KRS 161.661 is amended to read as follows:

- (1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided in this section. Application for disability benefits shall be made within one (1) year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary. *Individuals who became members prior to January 1, 2019, who have~~with~~ twenty-seven (27) or more years of service credit are eligible for service retirement only. Individuals who become members on or after January 1, 2019, who have met the requirements of subsection (6)(b) of Section 43 of this Act shall be eligible for service retirement only.*
- (2) The provisions of KRS 161.520, 161.525, and subsections (3), (4), and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of these members.

- (3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position, but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of eligibility.
- (4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year retired for disability. This service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and this service shall be used in calculating benefits as provided in subsection (5) of this section, but under no circumstances shall this service be used to provide the member with more than twenty-seven (27) years of total service credit ***or the level of service credit needed to meet the requirements of subsection (6)(b) of Section 43 of this Act, as applicable.*** The service credit shall be valued at the same level as service earned by active members as provided under KRS 161.600, ~~and~~ 161.620, ***or Section 43 of this Act, as applicable. Members participating in the hybrid cash balance plan as provided by Section 43 of this Act shall also be credited with employer credits and interest credits for each year of service earned under the provisions of this subsection based upon the salary in which the last employer credit was paid. Payments during the entitlement period as specified by subsection (3) of this section shall not reduce the accumulated account balance of a member participating in the hybrid cash balance plan.***
- (5) Any member retired by reason of disability and remaining disabled at the expiration of the entitlement period shall have his disability benefits recalculated using the service retirement formula with service credit ***and any additional accumulated account balance earned*** as set out in subsection (4) of this section. ***For persons who became members prior to January 1, 2019, the retirement allowance shall be calculated as set forth in KRS 161.620, except that those persons less than sixty (60) years of age shall be considered as sixty (60) years of age. For persons who become members on or after January 1, 2019, the retirement allowance or benefit shall be calculated as set forth in Section 43 of this Act, except that those persons less than age sixty-five (65) shall be considered as sixty-five (65) years of age.*** Members having their disability benefits recalculated under this subsection shall not be entitled to a benefit based upon an average of their three (3) highest salaries as set forth in KRS 161.220(9), unless approved otherwise by the board of trustees.
- (6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of five hundred dollars (\$500) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1992, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.
- (7) Effective July 1, 1992, members retired for disability prior to July 1, 1964, shall be entitled to a minimum monthly allowance of five hundred dollars (\$500) as their basic straight life annuity and their surviving spouse shall be eligible for survivor benefits as provided in KRS 161.520(1)(a) and (b).
- (8) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or any ***individual who became a member prior to January 1, 2019***, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement, ***or any individual who becomes a member on or after January 1, 2019, who is sixty-five (65) years of age or older, may elect to waive disability benefits and retire for service on the basis of his or her accumulated account balance and service credited to the member on the effective date of disability retirement.***
- (9) In order to qualify for retirement by reason of disability a member must suffer from a physical or mental condition presumed to be permanent in duration and of a nature as to render the member incapable of being gainfully employed in a covered position. The incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.
- (10) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.

- (11) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.
- (12) No person who receives a disability allowance may be employed in a position that entails duties or qualification requirements similar to positions subject to participation in the retirement system either within or without the State of Kentucky. So doing shall constitute a misdemeanor and shall result in loss of the allowance from the first date of this service. A member who applies for and is approved for disability retirement on or after July 1, 2002, and whose annual disability benefit is less than forty thousand dollars (\$40,000) may earn income in any occupation other than covered employment only to the extent that the annual income from the other employment when added to the annual disability benefit does not exceed forty thousand dollars (\$40,000). For any member who exceeds this limit as a result of income from other employment, the Kentucky Teachers' Retirement System shall reduce the member's disability benefit on a dollar-for-dollar basis for each dollar that the member's combined annual disability benefit and annual income from other employment exceeds forty thousand dollars (\$40,000). The board of trustees may annually increase the forty thousand dollar (\$40,000) limit by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%).
- (13) All members who applied for disability retirement before July 1, 2002, and were approved as a result of that application shall be subject to the income limitations as they existed on June 30, 2002, until July 1, 2006. Effective July 1, 2006, the twenty-seven thousand dollar (\$27,000) limitation shall be increased to forty thousand dollars (\$40,000) and may be adjusted by the board of trustees by the consumer price index in the manner described in subsection (12) of this section. The recipient of a disability allowance who engages in any gainful occupation other than covered employment must make a report of the duties involved, compensation received, and any other pertinent information required by the board of trustees.
- (14) The board of trustees shall designate medical review committees, each consisting of three (3) licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all applicant statements, medical certifications, and examinations submitted in connection with disability applications. The disposition of each case shall be recommended by a medical review committee in writing to the retirement system. Members of a medical review committee shall follow administrative regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The retirement system may secure additional medical examinations and information as it deems necessary. A member may appeal any final agency decision denying his or her disability retirement application pursuant to the provisions of KRS 161.250(2).
- (15) A disability may be presumed to be permanent if the condition creating the disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.
- (16) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three (3) months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.
- (17) No person who is receiving disability benefits under this section may be employed in a position which qualifies the person for membership in a retirement system financed wholly or in part with public funds. Employment in a position prohibited by this subsection shall result in disqualification for those disability benefits from the date of employment in the prohibited position.
- (18) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section, or becomes disqualified from receiving a portion of those benefits due to income from other than covered employment, shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits. The Kentucky Teachers' Retirement System may, in order to collect an outstanding debt, reduce or terminate any benefit that a member is otherwise entitled to receive.

➔Section 78. KRS 161.650 is amended to read as follows:

- (1) In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the state accumulation fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.
- (2) The member may designate a primary beneficiary or two (2) or more cobeneficiaries to receive any remaining accumulated member contributions payable under this section. A contingent beneficiary may be designated in addition to the primary beneficiary or the cobeneficiaries. The member may designate two (2) or more contingent beneficiaries. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of any remaining *funds of the member's* accumulated ~~member~~ contributions. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. Cobeneficiaries shall be composed of a single class of individuals, or trusts where permitted, who will share in equal proportions in any payment that may become available under this section. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that the member fails to designate a beneficiary or all designated beneficiaries predecease the member, any remaining accumulated member contributions shall be payable to the member's estate.

➔Section 79. KRS 161.700 is amended to read as follows:

- (1) Except as otherwise provided by this section and KRS 161.655(5), the right of a member to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under KRS 161.220 to 161.716, and the money in the various funds established pursuant to KRS 161.220 to 161.716 are hereby exempt from any state or municipal tax, and shall not be subject to execution, garnishment, attachment, or other process, and shall not be assigned.
- (2) Notwithstanding subsection (1) of this section, retirement benefits accrued or accruing to any person under this retirement system on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (3) Retirement allowance, disability allowance, accumulated *account balance* ~~contributions~~, or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1), except to the extent permitted under KRS 403.190(4). Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d), except to the extent permitted under KRS 403.190(4).
- (4) Qualified domestic relations orders issued by a court or administrative agency shall be honored by the retirement system if:
 - (a) The benefits payable pursuant to the order meet the requirements of a qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p) in administering qualified domestic relations orders;
 - (b) The order meets the requirements established by the retirement system and by subsections (4) to (12) of this section. The board of trustees of the retirement system shall establish the requirements, procedures, and forms necessary for the administration of qualified domestic relations order by promulgation of administrative regulations in accordance with KRS Chapter 13A; and
 - (c) The order is on the form established by the retirement system pursuant to the retirement system's authority provided under paragraph (b) of this subsection.
- (5) A qualified domestic relations order shall not:
 - (a) Require the retirement system to take any action not authorized under state or federal law;
 - (b) Require the retirement system to provide any benefit, allowance, or other payment not authorized under state or federal law;

- (c) Grant or be construed to grant the alternate payee any separate right, title, or interest in or to any retirement benefit other than to receive payments from the participant's account in accordance with the administrative regulations promulgated by the system and as provided by subsections (4) to (12) of this section; or
 - (d) Grant any separate interest to any person other than the participant.
- (6) Any qualified domestic relations order submitted to the retirement system shall specify the dollar amount or percentage amount of the participant's benefit to be paid to the alternate payee. In calculating the amount to be paid to the alternate payee, the court or administrative agency that is responsible for issuing the order shall follow the requirements set forth in the administrative regulations promulgated by the board of trustees. Notwithstanding any other statute to the contrary, the board shall not be required to honor a qualified domestic relations order that does not follow the requirements set forth in the administrative regulations promulgated by the board of trustees.
- (7) If the qualified domestic relations order meets the requirements established by the system and by subsections (4) to (12) of this section, payments to the alternate payee shall be distributed under the following conditions:
- (a) If the participant is retired and is receiving a monthly **retirement allowance**~~[benefit]~~, the month following the date the retirement system receives a qualified domestic relations order that complies with the administrative regulations promulgated by the retirement system and subsections (4) to (12) of this section; or
 - (b) If the participant is not retired, the month of the participant's effective retirement date in which the first retirement allowance is payable to the participant or the month in which the participant receives a refund of **his or her accumulated account balance**~~[contributions]~~ as provided by KRS 161.470(6).
- (8) An alternate payee's benefits and rights under a qualified domestic relations order shall terminate upon the earlier of:
- (a) The death of the participant;
 - (b) The death of the alternate payee; or
 - (c) The termination of benefits to the participant under any provision of KRS 161.220 to 161.716.
- (9) An alternate payee shall not receive a monthly payment under a qualified domestic relations order if the participant is not receiving a monthly retirement allowance.
- (10) The cost of living adjustment provided to the participant pursuant to KRS 161.620 shall be divided between the participant and alternate payee in a qualified domestic relations order as follows:
- (a) If the order specifies the alternate payee is to receive a percentage of the participant's benefit, then the cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or
 - (b) If the order specifies that the alternate payee is to receive a set dollar amount of the participant's benefit, then the order shall specify that:
 - 1. The cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or
 - 2. The alternate payee shall receive no cost of living adjustment.
- If the order does not specify the division of the cost of living adjustment as required by this paragraph, then no cost of living adjustment shall be payable to the alternate payee. If no cost of living adjustment is provided to the alternate payee, then the participant shall receive the full cost of living adjustment he or she would have received if the order had not been applied to the participant's account.
- (11) Except in cases involving child support payments, the retirement system may charge reasonable and necessary fees and expenses to the recipient and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by retirement system. All fees and expenses shall be established by the administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:

- (a) Solely by the participant;
 - (b) Solely by the alternate payee; or
 - (c) Equally shared by the participant and alternate payee.
- (12) The retirement system shall honor a qualified domestic relations order issued prior to July 15, 2010, for prospective benefit payments if the order or an amended version of the order meets the requirements established by this section and the administrative regulations promulgated by the retirement system. The order shall not apply to benefit payments issued by the retirement system prior to the date the order was approved by the retirement system.

➔Section 80. KRS 161.714 is amended to read as follows:

- (1) ***For persons who became members in the Teachers' Retirement System prior to January 1, 2019***, it is hereby declared that in consideration of the contributions by members and in further consideration of benefits received by the state from the member's employment, KRS 161.220 to 161.710 shall constitute~~ed~~, ~~except as provided in KRS 6.696,~~ an inviolable contract of the Commonwealth, and the benefits provided herein shall ~~not be subject to reduction or impairment by alteration, amendment, or repeal, except:~~
- (a) ***As provided in KRS 6.696; and***
 - (b) ***The General Assembly reserves the right to amend, reduce, or suspend any legislative changes to the provisions of KRS 161.220 to 161.716 that become effective on or after July 1, 2018.***
- (2) (a) ***For persons who become members in the Teachers' Retirement System on or after January 1, 2019, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 161.220 to 161.716 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.***
- (b) ***For purposes of this subsection, the amount of benefits the member has accrued at the time of any amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.***
- (c) ***The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 161.220 to 161.716, except the benefits specified by paragraph (b) of this subsection for members who begin participating in the Teachers' Retirement System on or after January 1, 2019.***
- (3) ***The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Teachers' Retirement System as provided by KRS 161.220 to 161.716 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2018.***

➔Section 81. KRS 7A.250 is amended to read as follows:

The Public Pension Oversight Board:

- (1) Shall, from time to time, conduct an impartial review of all the laws governing the state-administered retirement systems and recommend any changes it may find desirable with respect to benefits and administration, funding of benefits, investments of funds, and the improvement of language, structure, and organization of the statutes;
- (2) ~~May~~**Shall**, once every five (5) years, review the benefits provided to employees who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, ***and the Teachers' Retirement System on or after January 1, 2019***, and recommend any changes to the provisions affecting these employees that are necessary to maintain the actuarial soundness of the systems;
- (3) Shall review semiannually the investment programs of the state-administered retirement systems, including a review of asset allocation targets and ranges, risk factors, asset class benchmarks, total return objectives, relative volatility, performance evaluation guidelines, investment policies, and securities litigation policies and recoveries from fraud or other corporate malfeasance. The board may establish an advisory committee, as provided by KRS 7A.260, which may include investment professionals to assist in complying with the provisions of this subsection;

- (4) May review any benefits, bylaws, policies, or charters established by the state-administered retirement systems;
- (5) Shall, at the request of the Speaker of the House of Representatives or the President of the Senate, evaluate proposed changes to laws affecting the state-administered retirement systems and report to the Speaker or the President on the probable costs, actuarial implications, and desirability as a matter of public policy;
- (6) May review all new or amended administrative regulations of the state-administered retirement systems and provide comments to the Administrative Regulation Review Subcommittee established by KRS 13A.020;
- (7) Shall research issues related to the state-administered retirement systems as directed by the Legislative Research Commission;
- (8) Shall at least once every five (5) years have an actuarial audit performed for the state-administered retirement systems to evaluate the reliability of each system's actuarial assumptions and methods. The actuarial audit shall be performed by an actuary retained by the Public Pension Oversight Board;
- (9) ~~May~~~~Shall~~ prior to each budget biennium **occurring on or after July 1, 2020**, have an actuarial review of the funding requests and needs submitted by the state-administered retirement systems. The review shall be performed by an actuary retained by the Public Pension Oversight Board; and
- (10) Shall publish an annual report covering the board's evaluation and recommendations with respect to the operations of the state-administered retirement systems. The report shall be submitted to the Legislative Research Commission no later than December 31 of each year and shall include at a minimum any legislative recommendations made by the board, a summary of the financial and actuarial condition of the state-administered retirement systems, and an analysis of the adequacy of the current levels of funding.

➔SECTION 82. A NEW SECTION OF KRS 18A.230 TO 18A.275 IS CREATED TO READ AS FOLLOWS:

- (1) *No trustee or employee of the board or authority shall:*
 - (a) *Have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board or authority, except that any such trustee or employee may be a member, employee, or beneficiary of the plans administered by the board or authority;*
 - (b) *Directly or indirectly, for himself or herself or as an agent, use the assets of the plans administered by the board or authority, except to make current and necessary payments authorized by the board or authority;*
 - (c) *Become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the board or authority;*
 - (d) *Have a contract or agreement with the board or authority, individually or through a business owned by the trustee or the employee;*
 - (e) *Use his or her official position with the board or authority to obtain a financial gain or benefit or advantage for himself or herself or a family member;*
 - (f) *Use confidential information acquired during his or her tenure with the board or authority to further his or her own economic interests or that of another person; or*
 - (g) *Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the board or authority. The provisions of this paragraph shall not prohibit a trustee from serving as an employee of an agency participating in the plans.*
- (2) *No trustee or employee of the board or authority, who has served as a trustee or employee of the board or authority on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board or authority for a period of five (5) years following termination of his or her position, except that any such trustee or employee may be a member, employee, or beneficiary of the plans administered by the board or authority.*
- (3) (a) *No person who is serving as a member of the General Assembly or is a public servant as defined by subsection (9) of Section 83 of this Act shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board or*

authority, except that any such trustee or public servant may be a member, employee, or beneficiary of the plans administered by the board or authority.

- (b) *No person who was serving as a member of the General Assembly on or after July 1, 2017, or was serving as a public servant as defined by subsection (9) of Section 83 of this Act on or after July 1, 2017, shall have any interest, direct or indirect, in the gains or profits of any investment or any other legal, business, or financial transaction made by the board or authority for a period of five (5) years following termination of his or her position, except that any such member or public servant may be a member, employee, or beneficiary of the plans administered by the board or authority.*

➔Section 83. KRS 11A.010 is amended to read as follows:

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

- (1) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted, whether or not for profit;
- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, the waiver of a registration fee for a presenter at a conference or training described in KRS 45A.097(5), or door prizes available to the public;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Kentucky Claims Commission, Kentucky Retirement Systems board of trustees, Kentucky Teachers' Retirement System board of trustees, *the Kentucky Public Employees Deferred Compensation Authority board of trustees*, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;
- (9) "Public servant" means:
 - (a) The Governor;
 - (b) The Lieutenant Governor;
 - (c) The Secretary of State;
 - (d) The Attorney General;
 - (e) The Treasurer;
 - (f) The Commissioner of Agriculture;
 - (g) The Auditor of Public Accounts; and

- (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(23) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);
- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he or she has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (18) "Directly involved" means to work on personally or to supervise someone who works on personally;
- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public; and
- (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert.

➔Section 84. KRS 18A.245 is amended to read as follows:

- (1) The authority shall be administered by a board of trustees composed of seven (7) members, who shall be as follows:
 - (a) Secretary, Finance and Administration Cabinet, ex officio;
 - (b) Secretary of personnel, ex officio;
 - (c) The state controller, ex officio; and
 - (d) Four (4) at-large members appointed by the Governor, ***who do not have a conflict of interest as provided by Section 82 of this Act***, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall be a representative of a nonstate government employer.
- (2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office. Each ex officio member may designate a proxy by written notice to the authority prior to call of order of each meeting, and the proxy shall be entitled to participate as a full voting member.
- (3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.
- (4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

- (5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of one hundred dollars (\$100) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.
- (6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.
- (7) The authority shall be attached to the Personnel Cabinet for administrative purposes only. The board may take but is not limited to the following actions:
 - (a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the secretary. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A. The executive director of the authority and employees appointed by the board shall serve at its will and pleasure. All other staff of the authority shall be employed under KRS 18A.005 to 18A.200;
 - (b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;
 - (c) Establish a system of accounting;
 - (d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;
 - (e) Do all things, take all actions, and adopt plans for participation consistent with federal law and with the provisions of KRS 18A.230 to 18A.275, including but not limited to:
 - 1. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan or the Kentucky Employees 457 Deferred Compensation Plan, or both such plans, to adopt, maintain, and terminate a deemed IRA program under Internal Revenue Code Section 408;
 - 2. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan to adopt, maintain, and terminate a qualified Roth contribution program under Internal Revenue Code Section 402A;~~and~~
 - 3. Adopting, maintaining, and terminating an Internal Revenue Code Section 403(b) plan for qualified employees; and
 - 4. ***Upon the request of the Kentucky Retirement Systems board of trustees, establishing an investment program for the 401(a) defined contribution plan as provided by Section 12 of this Act; and***
 - (f) Contract with persons or companies duly licensed by the state of Kentucky and applicable federal regulatory agencies, at the cost of the trust fund, to provide investment advice to participants in the plans, with respect to their selection of permitted investments in the plans.
- (8) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.
- (9) The board shall prepare an annual financial report showing all receipts, disbursements, assets, and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.

➔Section 85. KRS 61.598 is amended to read as follows:

- (1) For purposes of this section, "bona fide promotion or career advancement":
 - (a) Means a professional advancement in substantially the same line of work held by the employee in the four (4) years immediately prior to the final five (5) fiscal years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the employee that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member; and
 - (b) Does not include any circumstance where an elected official participating in the Kentucky Employees Retirement System or the County Employees Retirement System takes a position of employment with a different employer participating in any of the state-administered retirement systems.

- (2) (a) For employees retiring from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System on or after January 1, 2018, the systems shall, for each of the retiring employee's last five (5) fiscal years of employment, identify any fiscal year in which the creditable compensation increased at a rate of ten percent (10%) or more annually over the immediately preceding fiscal year's creditable compensation. The employee's creditable compensation in the fiscal year immediately prior to the employee's last five (5) fiscal years of employment shall be utilized to compare the initial fiscal year in the five (5) fiscal year period.
 - (b) Except as limited or excluded by subsections (3) and (4) of this section, any amount of increase in creditable compensation for a fiscal year identified under paragraph (a) of this subsection that exceeds ten percent (10%) more than the employee's creditable compensation from the immediately preceding fiscal year shall not be included in the creditable compensation used to calculate the retiring employee's monthly retirement allowance. If the creditable compensation for a specific fiscal year identified under paragraph (a) of this subsection as exceeding the ten percent (10%) increase limitation is not used to calculate the retiring employee's monthly retirement allowance, then no reduction in creditable compensation shall occur for that fiscal year.
 - (c) If the creditable compensation of the retiring employee is reduced as provided by paragraph (b) of this subsection, the retirement systems:
 - 1. Shall refund the employee contributions and interest attributable to the reduction in creditable compensation; and
 - 2. Shall not refund the employer contributions paid but shall utilize those funds to pay down the unfunded liability of the pension fund in which the retiring employee participated.
- (3) In order to ensure the prospective application of the limitations on increases in creditable compensation contained in subsection (2) of this section, only the creditable compensation earned by the retiring employee on or after July 1, 2017, shall be subject to reduction under subsection (2) of this section. Creditable compensation earned by the retiring employee prior to July 1, 2017, shall not be subject to reduction under subsection (2) of this section.
- (4) Subsection (2) of this section shall not apply to:
- (a) A bona fide promotion or career advancement as defined by subsection (1) of this section;
 - (b) A lump-sum payment for compensatory time paid to an employee upon termination of employment;
 - (c) A lump-sum payment made pursuant to an alternate sick leave program under KRS 78.616(5) that is paid to an employee upon termination of employment;
 - (d) Increases in creditable compensation in a fiscal year over the immediately preceding fiscal year, where in the immediately preceding fiscal year the employer reported the employee as being on leave without pay for any reason, including but not limited to sick leave without pay, maternity leave, leave authorized under the Family Medical Leave Act, and any period of time where the employee received workers' compensation benefit payments that were not reported to the plan as creditable compensation;
 - (e) Increases in creditable compensation directly attributable to an employee's receipt of compensation for overtime hours worked while serving as a participating employee under any state or federal grant, grant pass-through, or similar program that requires overtime as a condition or necessity of the employer's receipt of the grant; and
 - (f) Increases in creditable compensation directly attributable to an employee's receipt of compensation for overtime performed during a state of emergency declared by the President of the United States or the Governor of the Commonwealth of Kentucky.
- (5) (a) For employees retiring on or after January 1, 2014, but prior to July 1, 2017, the last participating employer shall be required to pay for any additional actuarial costs resulting from annual increases in an employee's creditable compensation greater than ten percent (10%) over the employee's last five (5) fiscal years of employment that are not the direct result of a bona fide promotion or career advancement. The cost shall be determined by the retirement systems.
- (b) Lump-sum payments for compensatory time paid to an employee upon termination of employment shall be exempt from this subsection.

- (c) Kentucky Retirement Systems shall be required to answer inquiries from participating employers regarding this subsection. Upon request of the employer prior to the employee's change of position or hiring, the systems shall make a determination that is binding to the systems as to whether or not a change of position or hiring constitutes a bona fide promotion or career advancement.
 - (d) For any additional actuarial costs charged to the employer under this subsection, the systems shall allow the employer to pay the costs without interest over a period of one (1) year from the date of receipt of the employer's final invoice.
- (6) The Kentucky Retirement Systems shall determine whether increases in creditable compensation during the last five (5) fiscal years of employment prior to retirement constitute a bona fide promotion or career advancement and may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section. All state-administered retirement systems shall cooperate to implement this section.
 - (7) Any employer who disagrees with a determination made by the system in accordance with this section regarding whether an increase in compensation constitutes a bona fide promotion or career advancement for purposes of subsection (5) of this section may request a hearing and appeal the decision in accordance with KRS 61.645(16).
 - (8) For the fiscal year beginning July 1, 2017, and subsequent years, the Kentucky Retirement Systems shall provide a means for employers to separately report the specific exceptions provided in subsection (4) of this section within the reporting system utilized by the employers for making employer reports under KRS 16.645, 61.675, and 78.545. The Kentucky Retirement Systems shall continually provide communication, instructions, training, and educational opportunities for employers regarding how to appropriately report exemptions established by subsection (4) of this section.
 - (9) This section shall not apply to employees participating in the hybrid cash balance plan as provided by KRS 16.583 and 61.597 *or to service in the 401(a) money purchase plan as provided by Section 12 of this Act.*

➔Section 86. Pursuant to the Public Pension Oversight Board's authority under KRS 7A.260, the board shall establish an advisory committee to study the benefits and drawbacks of separating the County Employees Retirement System from the Kentucky Retirement Systems or restructuring the administration of the systems administered by the Kentucky Retirement Systems. The advisory committee shall submit recommendations to the Public Pension Oversight Board no later than December 1, 2019. Notwithstanding the provisions of this section, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof and to designate a study completion date.

➔Section 87. The Kentucky Retirement Systems and Teachers' Retirement System shall provide an update on the development of the system, including any issues as it relates to state or federal law, to the Public Pension Oversight Board no later than August 1, 2018.

➔Section 88. Notwithstanding KRS 16.500 to 16.652, 61.510 to 61.705, 78.510 to 78.852, 161.220 to 161.716, or any provision of Sections 1 to 85 of this Act to the contrary, in the month following the effective date of this section, a surviving spouse who was married to the deceased member at the time of death but who was ineligible for monthly benefits payable to the surviving spouse under KRS 16.601 as codified prior to the effective date of this section, shall receive the monthly benefit payable to the surviving spouse in Section 24 of this Act, if the member's death occurred on or after January 1, 2017.

➔Section 89. If any section, any subsection, or any provision of this Act is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions of this Act.

Signed by Governor April 10, 2018.

CHAPTER 108

(SB 6)

AN ACT relating to the safe disposal of controlled substances.

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

➔Section 1. KRS 218A.170 is amended to read as follows:

- (1) A duly licensed manufacturer, distributor, or wholesaler may sell or distribute controlled substances, other than samples, to any of the following persons:
 - (a) To a manufacturer, wholesaler, or pharmacy;
 - (b) To a practitioner;
 - (c) To the administrator in charge of a hospital, but only for use by or in that hospital;
 - (d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical research purposes;
 - (e) To a person registered pursuant to the federal controlled substances laws.
- (2) A pharmacist may sell or distribute a controlled substance:
 - (a) Pursuant to a prescription that conforms to the requirements of this chapter; or
 - (b) To a person registered pursuant to the federal controlled substances laws.
- (3) *A pharmacist who is licensed under KRS Chapter 315 or a pharmacist's designee shall inform persons who receive a prescription for a controlled substance that contains any salt, compound, derivative, or preparation of an opioid, benzodiazepine, a barbiturate, codeine, or an amphetamine, about the importance of proper and safe disposal of unused, unwanted, or expired prescription drugs by one of the following methods:*
 - (a) *Verbally;*
 - (b) *In writing; or*
 - (c) *Posted signage.*
- (4) *Upon dispensing of any prescription that contains any salt, compound, derivative, or preparation of an opioid, benzodiazepine, a barbiturate, codeine, or an amphetamine, a pharmacist who is licensed under KRS Chapter 315 or a pharmacist's designee may:*
 - (a) *Make available for purchase, or at no charge distribute, a nontoxic composition for the sequestration, deactivation, destruction, and disposal of any unused, unwanted, or expired prescription; or*
 - (b) *Provide an on-site, safe, and secure medicine disposal receptacle or kiosk for the safe disposal of any unused, unwanted, or expired prescription.*
- (5) *A manufacturer or distributor of nontoxic compositions for the sequestration, deactivation, or destruction and disposal of controlled substances is strongly encouraged to enter into a consignment-reimbursement contract with a pharmacy in order for a pharmacy to expand its inventory of the nontoxic compositions.*
- (6) A practitioner may:
 - (a) Administer, dispense, or prescribe a controlled substance only for a legitimate medical purpose and in the course of professional practice; or
 - (b) Distribute a controlled substance to a person registered pursuant to the federal controlled substance laws.
- (7) *A practitioner who dispenses a controlled substance that contains any salt, compound, derivative, or preparation of an opioid, benzodiazepine, a barbiturate, codeine, or an amphetamine shall:*
 - (a) *Inform all persons who receive a prescription for a controlled substance about the importance of proper and safe disposal of unused, unwanted, or expired prescription drugs; and*
 - (b) *Make available for purchase, or at no cost distribute, a nontoxic composition for the sequestration, deactivation, or destruction and disposal of unused, unwanted, or expired controlled substances.*
- ~~(8)(4)~~ All sales and distributions shall be in accordance with KRS 218A.200 and the federal controlled substances laws, including the requirements governing the use of order forms.
- ~~(9)(5)~~ Possession of or control of controlled substances obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

- (10) *Subsections (3), (4), (7), and (12) of this section shall not apply to veterinarians.*
- (11) *The Kentucky Medicaid program shall not be required to provide payment for the provisions established in subsections (4) and (7) of this section.*
- (12) *Any person who violates subsection (3) or (7) of this section shall be subject to a fine of twenty-five dollars (\$25) for the first violation, a fine of one hundred dollars (\$100) for the second violation, and a fine of two hundred dollars (\$200) for each subsequent violation.*

Became law without Governor's signature April 11, 2018.

CHAPTER 109

(SB 19)

AN ACT relating to sex offenses.

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

➔Section 1. KRS 510.050 is amended to read as follows:

- (1) A person is guilty of rape in the second degree when:
 - (a) Being eighteen (18) years old or more, he *or she* engages in sexual intercourse with another person less than fourteen (14) years old; or
 - (b) He *or she* engages in sexual intercourse with another person who is mentally incapacitated *or who is incapable of consent because he or she is an individual with an intellectual disability.*
- (2) Rape in the second degree is a Class C felony.

➔Section 2. KRS 510.060 is amended to read as follows:

- (1) A person is guilty of rape in the third degree when:
 - (a) ~~He or she engages in sexual intercourse with another person who is incapable of consent because he or she is an individual with an intellectual disability;~~
 - ~~(b)~~ Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than sixteen (16) years old;
 - ~~(b)(c)~~ Being twenty-one (21) years old or more, he or she engages in sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020;
 - ~~(c)(d)~~ Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in sexual intercourse with a minor under eighteen (18) years old with whom he or she comes into contact as a result of that position; or
 - ~~(d)(e)~~ Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual intercourse.
- (2) Rape in the third degree is a Class D felony.

➔Section 3. KRS 510.080 is amended to read as follows:

- (1) A person is guilty of sodomy in the second degree when:
 - (a) Being eighteen (18) years old or more, he *or she* engages in deviate sexual intercourse with another person less than fourteen (14) years old; or

- (b) He *or she* engages in deviate sexual intercourse with another person who is mentally incapacitated *or who is incapable of consent because he or she is an individual with an intellectual disability*.

- (2) Sodomy in the second degree is a Class C felony.

➔Section 4. KRS 510.090 is amended to read as follows:

- (1) A person is guilty of sodomy in the third degree when:

- (a) ~~He or she engages in deviate sexual intercourse with another person who is incapable of consent because he or she is an individual with an intellectual disability;~~

- ~~(b)~~ Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than sixteen (16) years old; or

- ~~(b)~~~~(c)~~ Being twenty-one (21) years old or more, he or she engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he or she provides a foster family home as defined in KRS 600.020;

- ~~(c)~~~~(d)~~ Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she engages in deviate sexual intercourse with a minor less than eighteen (18) years old with whom he or she comes into contact as a result of that position; or

- ~~(d)~~~~(e)~~ Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to deviate sexual intercourse.

- (2) Sodomy in the third degree is a Class D felony.

➔Section 5. KRS 510.110 is amended to read as follows:

- (1) A person is guilty of sexual abuse in the first degree when:

- (a) He or she subjects another person to sexual contact by forcible compulsion; or

- (b) He or she subjects another person to sexual contact who is incapable of consent because he or she:

1. Is physically helpless;
2. Is less than twelve (12) years old;~~or~~
3. Is mentally incapacitated; or
- 4. Is an individual with an intellectual disability; or**

- (c) Being twenty-one (21) years old or more, he or she:

1. Subjects another person who is less than sixteen (16) years old to sexual contact;
2. Engages in masturbation in the presence of another person who is less than sixteen (16) years old and knows or has reason to know the other person is present; or
3. Engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate; or

- (d) Being a person in a position of authority or position of special trust, as defined in KRS 532.045, he or she, regardless of his or her age, subjects a minor who is less than eighteen (18) years old, with whom he or she comes into contact as a result of that position, to sexual contact or engages in masturbation in the presence of the minor and knows or has reason to know the minor is present or engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than sixteen (16) years old, and the minor can see or hear the person masturbate.

- (2) Sexual abuse in the first degree is a Class D felony, unless the victim is less than twelve (12) years old, in which case the offense shall be a Class C felony.

➔Section 6. KRS 510.120 is amended to read as follows:

- (1) A person is guilty of sexual abuse in the second degree when:
 - (a) ~~He or she subjects another person to sexual contact who is incapable of consent because he or she is an individual with an intellectual disability;~~
 - ~~(b)~~ He or she is at least eighteen (18) years old but less than twenty-one (21) years old and subjects another person who is less than sixteen (16) years old to sexual contact; or
 - ~~(b)(e)~~ Being a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects a person who is at least eighteen (18) years old and who he or she knows is incarcerated, supervised, evaluated, or treated by the Department of Corrections, Department of Juvenile Justice, detention facility, or contracting entity, to sexual contact.
- (2) In any prosecution under subsection (1)(b) of this section, it is a defense that:
 - (a) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and
 - (b) The other person was at least fourteen (14) years old; and
 - (c) The actor was less than five (5) years older than the other person.
- (3) Sexual abuse in the second degree is a Class A misdemeanor.
 ➔Section 7. KRS 510.020 is amended to read as follows:
 - (1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.
 - (2) Lack of consent results from:
 - (a) Forcible compulsion;
 - (b) Incapacity to consent; or
 - (c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
 - (3) A person is deemed incapable of consent when he or she is:
 - (a) Less than sixteen (16) years old;
 - (b) An individual ***unable to communicate consent or lack of consent, or unable to understand the nature of the act or its consequences, due to***~~with~~ an intellectual disability or~~an individual that suffers from~~ a mental illness;
 - (c) Mentally incapacitated;
 - (d) Physically helpless; or
 - (e) Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency.
 - (4) The provisions of subsection (3)(e) of this section shall not apply to persons who are lawfully married to each other and no court order is in effect prohibiting contact between the parties.

Signed by Governor April 10, 2018.

CHAPTER 110

(SJR 52)

A JOINT RESOLUTION authorizing and directing the Kentucky Department of Education to facilitate a partnership with the University of Kentucky's Human Development Institute, University of Louisville College of

Education and Human Development, and local school districts to implement the "Kentucky Peer Support Network Project" in public schools across the Commonwealth.

WHEREAS, the General Assembly recognizes the need to expand and provide meaningful services and supports to students with significant disabilities; and

WHEREAS, the Constitution of the Commonwealth of Kentucky grants the management and control of common schools, and all programs operated in common schools, to the Kentucky Board of Education; and

WHEREAS, the University of Kentucky's Human Development Institute, through funding from the Commonwealth Council on Developmental Disabilities, in partnership with Kentucky special educators and the Kentucky Department of Education, is training schools and professionals throughout the state to establish Peer Supports and Peer Network Programs; and

WHEREAS, Peer Supports and Peer Network Programs involve identifying and equipping a group of peers to provide ongoing support to individual students with significant disabilities in and outside of the classroom; and

WHEREAS, within inclusive classrooms, Peer Supports programs train peers to provide academic and social support during ongoing learning activities; and

WHEREAS, beyond the classroom, a group of peers form a Peer Network around a student with a significant disability to help foster social connections and friendships between classes, at lunch, in extracurricular activities, or beyond the school day; and

WHEREAS, students participating in Peer Supports and Peer Network Programs experience clear benefits and demonstrate more effective communication skills, increased participation in the classroom, enhanced academic engagement, and increased self-confidence and self-determination; and

WHEREAS, the University of Louisville's "Teaching and Learning Pathway" seeks to reduce the shortage of special education educators in Kentucky by recruiting participants of Peer Supports and Peer Network Programs to pursue a career in special education; and

WHEREAS, the General Assembly envisages all local school districts in the Commonwealth implementing Peer Supports and Peer Networks to identify and equip groups of peers to provide ongoing support to individual students with significant disabilities in or outside of the classroom;

NOW, THEREFORE,

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

➔Section 1. The Kentucky Department of Education shall partner with the University of Kentucky's Human Development Institute, University of Louisville's College of Education and Human Development, and local school districts to implement the "Kentucky Peer Support Network Project" in public schools across the Commonwealth.

➔Section 2. The Kentucky Department of Education shall partner with the University of Kentucky's Human Development Institute and University of Louisville's College of Education and Human Development to identify and secure grant funding for the "Kentucky Peer Support Network Project" and "Teaching and Learning Pathway."

➔Section 3. No later than July 1 of each year, the Kentucky Department of Education shall report in writing to the members of the Interim Joint Committee on Education on the status of efforts to identify and secure grant funding for the "Kentucky Peer Support Network Project." The report shall include a copy of all grant applications submitted by the Kentucky Department of Education or Human Development Institute during the previous academic year for the purpose of funding the "Kentucky Peer Support Network Project." This reporting requirement shall be lifted for any year the Kentucky Department of Education determines the "Kentucky Peer Support Network Project" has adequate funding to maintain operations through July 1 of the following year.

Became law without Governor's signature April 11, 2018.

CHAPTER 111

(SB 57)

AN ACT relating to terrorism.

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

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

(1) *As used in this section:*

(a) *"Act of terror" means an activity that:*

1. *Involves violent acts or acts dangerous to human life that violate federal or state law;*
2. *Appears to be intended to:*
 - a. *Intimidate or coerce a civilian population;*
 - b. *Influence the policy of a government by intimidation or coercion; or*
 - c. *Affect the conduct of a government by mass destruction, assassination, or kidnapping; and*
3. *Occurs primarily within the Commonwealth; and*

(b) *"Terrorist" means a person who commits an act of terror, including a person who acts as an accessory before or after the fact, aids or abets, solicits, or conspires to commit an act of terror or who lends material support to an act of terror.*

(2) *Any person whose property or person is injured by a terrorist may file a claim for and recover damages from the terrorist.*

(3) *Any person who files an action under this section is entitled to recover three (3) times the actual damages sustained or fifty thousand dollars (\$50,000), whichever is greater, as well as court costs and attorney's fees in the trial and appellate courts if the person prevails in the claim.*

(4) *A civil action brought under this section is remedial and does not limit any other civil or criminal action provided by law. Civil remedies provided under this section are supplemental and not exclusive.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) *A person is guilty of the separate offense of terrorism if conviction of the underlying offense committed would classify the person as a violent offender under KRS 439.3401(1)(a), (b), (c), or (d), or the underlying offense was an offense under KRS 527.200, 527.205, or 527.210 and the person had the intent to:*

- (a) *Intimidate the civilian population at large, or an identifiable group of the civilian population; or*
- (b) *Influence, through intimidation, the conduct or activities of the government of the United States, the Commonwealth, any other state, or any unit of local government.*

(2) *A conviction of terrorism shall be punishable by a term of imprisonment for life without benefit of probation or parole. An offense under this section is a separate offense from the underlying offense and shall not merge with other offenses.*

(3) *A person convicted under this section shall not be released on probation, shock probation, parole, conditional discharge, or any other form of conditional release.*

(4) (a) *All real and personal property used or intended for use in the course of, derived from, or realized through an offense punishable pursuant to this section shall be subject to lawful seizure and forfeiture to the Commonwealth as set forth in KRS 218A.405 to 218A.460, except that any property seized and forfeited to the Commonwealth under this section that was used in an act of terror, as defined in Section 1 of this Act, shall be held for at least five (5) years for the purposes of paying any damages awarded under Section 1 of this Act.*

(b) *Notwithstanding paragraph (a) of this subsection, any real or personal property:*

1. *Taken by a lender in good faith as collateral for the extension of credit and recorded as provided by law;*
2. *Of an owner who made a bona fide purchase of the property; or*
3. *Of a person with rightful possession of the property;*

shall not be subject to forfeiture unless the lender, owner, or person had knowledge of an offense under this section.

- (5) *Damages awarded pursuant to a successful claim under Section 1 of this Act may be paid by property lawfully seized and forfeited under this section.*

➔Section 3. This Act shall be known and may be cited as Andy's Law.

Signed by Governor April 10, 2018.

CHAPTER 112

(SB 96)

AN ACT relating to operations within the Cabinet for Health and Family Services.

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

➔Section 1. KRS 79.080 is amended to read as follows:

- (1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been ~~licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and~~ issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is qualified under the requirements of the United States Department of Health, Education and Welfare, except as provided in subsection (4) of this section.
- (2) Cities of all classes, counties, and urban-county governments and the agencies of cities, counties, charter county, and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employees and elected officers, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employees and elected officers. The plan may require employees to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, charter county, urban-county government, or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employees and elected officers and by the city, county, charter county, urban-county government, or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, charter county, urban-county government, or agency. Each city, county, charter county, urban-county government, or agency may make rules and regulations and do all other things necessary in the establishment and operation of the plan.
- (3) Cities of all classes, counties, charter counties, urban-county governments, the agencies of cities, counties, charter counties, and urban-county governments, and all other political subdivisions of the state may provide disability, hospitalization, or other health or medical care coverage to their officers and employees, including their elected officers, through independent or cooperative self-insurance programs and may cooperatively purchase the coverages.
- (4) Any city, county, charter county, or urban-county government which is a contributing member to any one (1) of the retirement systems administered by the state may participate in the state health insurance coverage program for state employees as defined in KRS 18A.225 to 18A.229. Should any city, county, charter county, or urban-county government opt at any time to participate in the state health insurance coverage program, it shall do so for a minimum of three (3) consecutive years. If after the three (3) year participation period, the city, county, charter county, or urban-county government chooses to terminate participation in the state health insurance coverage program, it will be excluded from further participation for a period of three (3) consecutive years. If a city, county, charter county, or urban-county government, or one (1) of its agencies, terminates participation of its active employees in the state health insurance coverage program and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, neither the unit of government, or its agency, nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program. The three (3) year participation and exclusion cycles shall take effect each time a city, county, charter county, or urban-county government changes its participation status.
- (5) Any city, county, charter county, urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons and which provides hospitalization benefits or health maintenance

organization coverage to its employees and elected officers, shall annually give its employees an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside; except that if any city, county, charter county, urban-county government, or agencies of any city, county, charter county, urban-county government, or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the city, county, charter county, urban-county government, or agencies of the city, county, charter county, urban-county government, or any other political subdivision of the state may annually give its employees an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been ~~licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and~~ issued a certificate of authority by the Department of Insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, charter county, urban-county government, or other political subdivision of the state which employs more than twenty-five (25) persons for any other hospitalization benefit shall be paid by the employee.

- (6) If an employee moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.
- (7) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if the member passed an entrance physical examination and was found to be in good health as required.
- (8) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.
- (9) After August 1, 1988, except as permitted by KRS 65.156, no new retirement plan shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988. Any city, county, charter county, urban-county, or agency thereof which provided a retirement plan for its employees, pursuant to this section, on or prior to August 1, 1988, shall place employees hired after August 1, 1988, in the County Employees Retirement System. The city, county, charter county, urban-county, or agency thereof shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.

➔Section 2. KRS 199.8941 is amended to read as follows:

- (1) ***To the extent that funds are available, the Cabinet for Health and Family Services, in consultation with the*** ~~the~~ Early Childhood Advisory Council, shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish a program of monetary incentives including but not limited to an increased child-care subsidy and a one-time merit achievement award for child-care centers and certified family child-care homes that are tied to a quality rating system for child care as established under KRS 199.8943.
- (2) The monetary incentive program shall be reviewed annually by ***the cabinet, in consultation with*** the council, for the purpose of determining future opportunities to provide incentives.
- (3) Participation in the program of monetary incentives and in the quality rating system by public-funded child-care centers and certified family child-care homes is mandatory.
- (4) The Cabinet for Health and Family Services shall encourage the professional development of persons who are employed or provide training in a child-care or early childhood setting by facilitating their participation in the scholarship program for obtaining a child development associate credential, postsecondary certificate, diploma, degree, or specialty credential as established under KRS 164.518.

➔Section 3. KRS 199.8943 is amended to read as follows:

- (1) As used in this section:
 - (a) "Federally funded time-limited employee" has the same meaning as in KRS 18A.005;
 - (b) "Primary school program" has the same meaning as in KRS 158.031(1); and
 - (c) "Public-funded" means a program which receives local, state, or federal funding.
- (2) The Early Childhood Advisory Council shall, in consultation with early care and education providers, the Cabinet for Health and Family Services, and others, including but not limited to child-care resource and referral agencies and family resource centers, Head Start agencies, and the Kentucky Department of Education, develop a quality-based graduated early care and education program rating system for public-funded licensed child-care and certified family child-care homes, public-funded preschool, and Head Start, based on but not limited to:
 - (a) Classroom and instructional quality;
 - (b) Administrative and leadership practices;
 - (c) Staff qualifications and professional development; and
 - (d) Family and community engagement.
- (3) *(a) The Cabinet for Health and Family Services shall, in consultation with the Early Childhood Advisory Council, promulgate administrative regulations in accordance with KRS Chapter 13A to implement the:*
 - ~~(a) The~~ quality-based graduated early childhood rating system for public-funded child-care and certified family child-care homes~~, public-funded preschool, and Head Start~~ developed under subsection (2) of this section.~~;~~
 - (b) The Kentucky Department of Education shall, in consultation with the Early Childhood Advisory Council, promulgate administrative regulations in accordance with KRS Chapter 13A to implement the quality-based graduated early childhood rating system, developed under subsection (2) of this section, for public-funded preschool.*
 - (c) The administrative regulations promulgated in accordance with paragraphs (a) and (b) of this subsection shall include:*
 - 1. Agency time frames of reviews for rating;*
 - ~~2.(c)~~ *An appellate process under KRS Chapter 13B; and*
 - ~~3.(d)~~ *The ability of providers to request reevaluation for rating.*
- (4) The quality-based early childhood rating system shall not be used for enforcement of compliance or in any punitive manner.
- (5) The Early Childhood Advisory Council, in consultation with the Kentucky Center for Education and Workforce Statistics, *the Kentucky Department of Education, and the Cabinet for Health and Family Services*, shall report by October 1 of each year to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare on the implementation of the quality-based graduated early childhood rating system. The report shall include the following quantitative performance measures as data becomes available:
 - (a) Program participation in the rating system;
 - (b) Ratings of programs by program type;
 - (c) Changes in student school-readiness measures;
 - (d) Longitudinal student cohort performance data tracked through student completion of the primary school program; and
 - (e) Long-term viability recommendations for sustainability at the end of the Race to the Top-Early Learning Challenge grant.
- (6) By November 1, 2017, the Early Childhood Advisory Council and the Cabinet for Health and Family Services shall report to the Interim Joint Committee on Education and the Interim Joint Committee on Health and

Welfare on recommendations and plans for sustaining program quality after the depletion of federal Race to the Top-Early Learning Challenge grant funds.

- (7) Any federally funded time-limited employee personnel positions created as a result of the federal Race to the Top-Early Learning Challenge grant shall be eliminated upon depletion of the grant funds.

➔Section 4. KRS 199.990 is amended to read as follows:

- (1) ~~[Any person violating any of the provisions of KRS 199.380 to 199.400 shall be guilty of an offense, and upon conviction thereof, shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than twelve (12) months, or be both fined and imprisoned, in the discretion of the court.]~~
- (2) ~~—~~Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473, 199.570, 199.572, and 199.590 except subsection (2), or 199.640 to 199.670, or any rule or regulation under such sections the violation of which is made unlawful shall be fined not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) or imprisoned for not more than six (6) months, or both. Each day such violation continues shall constitute a separate offense.
- (2)~~[(3)]~~ Any person who willfully violates any other of the provisions of KRS 199.420 to 199.670 or any rule or regulation thereunder, the violation of which is made unlawful under the terms of those sections, and for which no other penalty is prescribed in those sections~~[or in subsection (1) of this section]~~, or in any other applicable statute, shall be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned for not more than thirty (30) days, or both.
- (3)~~[(4)]~~ Any violation of the regulations, standards, or requirements of the cabinet under the provisions of KRS 199.896 that poses an immediate threat to the health, safety, or welfare of any child served by the child-care center shall be subject to a civil penalty of no more than one thousand dollars (\$1,000) for each occurrence. Treble penalties shall be assessed for two (2) or more violations within twelve (12) months. All money collected as a result of civil penalties assessed under the provisions of KRS 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of the Early Childhood Scholarship Program created in accordance with KRS 164.518. The balance of the fund shall not lapse to the general fund at the end of each biennium.
- (4)~~[(5)]~~ A person who commits a violation of the regulations, standards, or requirements of the cabinet under the provisions of KRS 199.896 shall be fined not less than one thousand dollars (\$1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court.
- (5)~~[(6)]~~ Any person who violates any of the provisions of KRS 199.590(2) shall be guilty of a Class D felony.

➔Section 5. KRS 200.480 is amended to read as follows:

The Commission for Children with Special Health Care Needs shall~~[make a biennial]~~ report~~[to the Governor showing]~~ the amount of money received and expended and a detailed statement of its activities **to the Governor and General Assembly upon request**~~[for such period. A copy of such report shall be furnished each member of the General Assembly at its first session following the filing of such report with the Governor].~~

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS Chapter 13A, the Cabinet for Health and Family Services may amend material that had been previously incorporated by reference in an administrative regulation governing the Supplemental Nutrition Assistance Program, formerly known as the federal food stamp program, through technical amendment if the amendment is prescribed by the United States Department of Agriculture.

➔Section 7. KRS 205.560 is amended to read as follows:

- (1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as

defined in KRS 205.510 consonant with the funds available, including but not limited to the following categories, except where the aid is for the purpose of obtaining an abortion:

- (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
- (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
- (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include products for the treatment of inborn errors of metabolism or genetic, gastrointestinal, and food allergic conditions, consisting of therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified food products that are medically indicated for therapeutic treatment and are administered under the direction of a physician, and include but are not limited to the following conditions:
 - 1. Phenylketonuria;
 - 2. Hyperphenylalaninemia;
 - 3. Tyrosinemia (types I, II, and III);
 - 4. Maple syrup urine disease;
 - 5. A-ketoacid dehydrogenase deficiency;
 - 6. Isovaleryl-CoA dehydrogenase deficiency;
 - 7. 3-methylcrotonyl-CoA carboxylase deficiency;
 - 8. 3-methylglutaconyl-CoA hydratase deficiency;
 - 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
 - 10. B-ketothiolase deficiency;
 - 11. Homocystinuria;
 - 12. Glutaric aciduria (types I and II);
 - 13. Lysinuric protein intolerance;
 - 14. Non-ketotic hyperglycinemia;
 - 15. Propionic acidemia;
 - 16. Gyrate atrophy;
 - 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
 - 18. Carbamoyl phosphate synthetase deficiency;
 - 19. Ornithine carbamoyl transferase deficiency;
 - 20. Citrullinemia;
 - 21. Arginosuccinic aciduria;
 - 22. Methylmalonic acidemia;
 - 23. Argininemia;
 - 24. Food protein allergies;
 - 25. Food protein-induced enterocolitis syndrome;
 - 26. Eosinophilic disorders; and
 - 27. Short bowel syndrome;
- (d) Physician, podiatric, and dental services;

- (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);
 - (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;
 - (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;
 - (h) Services provided by health-care delivery networks as defined in KRS 216.900; *and*
 - (i) Services provided by midlevel health-care practitioners as defined in KRS 216.900; ~~and~~
 - ~~(j) Smoking cessation treatment interventions or programs prescribed by a physician, advanced practice registered nurse, physician assistant, or dentist, including but not limited to counseling, telephone counseling through a quitline, recommendations to the recipient that smoking should be discontinued, and prescription and over the counter medications and nicotine replacement therapy approved by the United States Food and Drug Administration for smoking cessation}.~~
- (2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health and Family Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health and Family Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:
- (a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;
 - (b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health and Family Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;
 - (c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;
 - (d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health and Family Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;
 - (e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services; and
 - (f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no

relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.
- (4) The rules and regulations of the Cabinet for Health and Family Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.
- (5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.
- (6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.
- (7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced practice registered nurse licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.
- (8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the intellectually disabled exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the intellectually disabled through community mental health centers.
- (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.
- (10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.
- (11) The Cabinet for Health and Family Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.
- (12) (a) The Medical Assistance Program shall use the appropriate form and guidelines for enrolling those providers applying for participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312, 314, 315, and 320, any facility required to be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A. A Medicaid managed care organization shall use the forms and guidelines established under KRS 304.17A-545(5) to credential a provider. For any provider who contracts with and is

credentialed by a Medicaid managed care organization prior to enrollment, the cabinet shall complete the enrollment process and deny, or approve and issue a Provider Identification Number (PID) within fifteen (15) business days from the time all necessary completed enrollment forms have been submitted and all outstanding accounts receivable have been satisfied.

- (b) Within forty-five (45) days of receiving a correct and complete provider application, the Department for Medicaid Services shall complete the enrollment process by either denying or approving and issuing a Provider Identification Number (PID) for a behavioral health provider who provides substance use disorder services, unless the department notifies the provider that additional time is needed to render a decision for resolution of an issue or dispute.
 - (c) Within forty-five (45) days of receipt of a correct and complete application for credentialing by a behavioral health provider providing substance use disorder services, a Medicaid managed care organization shall complete its contracting and credentialing process, unless the Medicaid managed care organization notifies the provider that additional time is needed to render a decision. If additional time is needed, the Medicaid managed care organization shall not take any longer than ninety (90) days from receipt of the credentialing application to deny or approve and contract with the provider.
 - (d) A Medicaid managed care organization shall adjudicate any clean claims submitted for a substance use disorder service from an enrolled and credentialed behavioral health provider who provides substance use disorder services in accordance with KRS 304.17A-700 to 304.17A-730.
 - (e) The Department of Insurance may impose a civil penalty of one hundred dollars (\$100) per violation when a Medicaid managed care organization fails to comply with this section. Each day that a Medicaid managed care organization fails to pay a claim may count as a separate violation.
- (13) Dentists licensed under KRS Chapter 313 shall be excluded from the requirements of subsection (12) of this section. The Department for Medicaid Services shall develop a specific form and establish guidelines for assessing the credentials of dentists applying for participation in the Medical Assistance Program.

➔Section 8. KRS 205.561 is amended to read as follows:

- (1) The cabinet shall submit a report to the Governor and the Legislative Research Commission on the dispensing of prescription medications to persons eligible under KRS 205.560 **upon request**, ~~on or before October 31, 2003, and every third year thereafter~~. The report shall also include current data on the most utilized and abused drugs in the Kentucky Medicaid program, a determination of factors causing high drug costs and drug usage rates of Medicaid recipients, and the effectiveness of the drug formulary and prior authorization process in managing drug costs. The report shall be reviewed by the Drug Management Review Advisory Board created under KRS 205.5636.
- (2) A reasonable fee for dispensing prescription medications shall be determined by the Department for Medicaid Services.

➔Section 9. KRS 205.690 is amended to read as follows:

The secretary shall submit a written report to the General Assembly ~~[during each regular session thereof and shall upon written request, submit a written report to]~~ or appear in person before any joint interim committee of the General Assembly within thirty (30) days of ~~a~~**such** request~~[-,]~~. The following information related to the implementation of KRS 205.2003 **shall be provided**:

- (1) The number of recipients placed in public and private work experience programs;
- (2) The number of recipients placed in regular full-time employment; and
- (3) The costs to the Commonwealth and participating local agencies or organizations of the implementation of the work program required under KRS 205.2003.

➔Section 10. KRS 205.712 is amended to read as follows:

- (1) The Department for Income Support, Child Support Enforcement, is established in the Cabinet for Health and Family Services.
- (2) The duties of the Department for Income Support, Child Support Enforcement, or its designee, shall include:
 - (a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to 669;

- (b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;
 - (c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;
 - (d) Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;
 - (e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment-of-paternity form;
 - (f) Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;
 - (g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;
 - (h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;
 - (i) Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212;
 - (j) Administratively establish child support orders which shall have the same force and effect of law;
 - (k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;
 - (l) Impose a penalty for failure to comply with an administrative subpoena;
 - (m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided; **and**
 - (n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court where the individual or entity resides. ~~and~~
- (3)~~(6)~~ ***The Department for Income Support, Child Support Enforcement, or its designee*** may promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas, ***and may amend forms by technical amendment that are mandated by the federal Office of Child Support Enforcement and incorporated by reference in administrative regulation.***
- (4)~~(3)~~ Effective September 30, 1999, the cabinet shall establish a system to receive and process all child support payments. The system shall include existing computer systems to record the payments. The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the cabinet and each child support order established or modified in the state on or after October 1, 1998.
- (5)~~(4)~~ The cabinet shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court-ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act. Establishment of the state unit may include the designation and continuation of existing local collection units to aid efficient and effective collection, disbursement, and recording of child support payments.
- (6)~~(5)~~ After the establishment of the disbursement unit child support collection system, the cabinet or its designee shall serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act.

- (7)~~(6)~~ Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is canceled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.
- (8)~~(7)~~ Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of the individuals for whom services are sought.
- (9)~~(8)~~ The cabinet shall determine the name of each obligor who owes an arrearage of at least two thousand five hundred dollars (\$2,500). After notification to the obligor owing an arrearage amount of two thousand five hundred dollars (\$2,500), the cabinet shall transmit to the United States secretary of health and human services the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The cabinet shall notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.
- (10)~~(9)~~ The cabinet shall determine the name of an obligor owing an arrearage and shall indefinitely deny, suspend, or revoke a license or certification that has been issued if the person has a child support arrearage that equals or exceeds the amount that would be owed after six (6) months of nonpayment or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).
- (11)~~(10)~~ The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.
- (12)~~(11)~~ The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, the person complies with the subpoena or warrant relating to paternity or child support proceedings, or the appeal of the denial or suspension is upheld and the license is reinstated.
- (13)~~(12)~~ Except for cases administered by the cabinet under 42 U.S.C. secs. 651 et seq. which shall be afforded the appeal process set forth by KRS 405.450(3), an individual who has a license or certification denied, revoked, or suspended shall have the right to appeal to the licensing or certifying board.
- (14)~~(13)~~ A dispute hearing shall be conducted by the cabinet in accordance with KRS 405.450. The only basis for a dispute hearing shall be a mistake in fact.
- (15)~~(14)~~ The cabinet shall in its discretion enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system as required by KRS 205.772 to 205.778.
- (16)~~(15)~~ The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.
- (17)~~(16)~~ The Cabinet for Health and Family Services shall forward to the Office of the Attorney General a list of names of delinquent obligors and, in cooperation with the Office of the Attorney General, shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 15.055.

~~(18)~~~~(17)~~ The cabinet shall compare a quarterly report provided by the Finance and Administration Cabinet of all tort claims made against the state by individuals with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

~~(19)~~~~(18)~~ The cabinet shall prepare and distribute to the cabinet's designee for the administration of the child support program information on child support collections and enforcement. The information shall include a description of how child support obligations are:

- (a) Established;
- (b) Modified;
- (c) Enforced;
- (d) Collected; and
- (e) Distributed.

~~(20)~~~~(19)~~ The cabinet's designee for the administration of the child support program shall distribute, when appropriate, the following:

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

➔Section 11. KRS 216.577 is amended to read as follows:

Upon a finding that conditions in a long-term care facility constitute a Type A violation, and the licensee fails to correct the violation within the time specified for correction by the cabinet, the secretary shall take at least one (1) of the following actions with respect to the facility in addition to the issuance of a citation, or the assessment of a civil penalty therefor:

- (1) Institute proceedings to obtain an order compelling compliance with the regulations, standards, or requirements as set forth by the *Cabinet for Health and Family Services*~~[Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board]~~, the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act;
- (2) Institute injunctive proceedings in Circuit Court to terminate the operation of the facility; or
- (3) Selectively transfer residents whose care needs are not being adequately met by the long-term care facility.

➔Section 12. KRS 216.935 is amended to read as follows:

As used in KRS 216.935 to 216.939, unless the context requires otherwise:

- (1) "Home health aide" means an individual who is hired to perform home health aide services.
- (2) "Home health agency" means a public agency or private organization, or a subdivision of such an agency or organization which is licensed as a home health agency by the *Cabinet for Health and Family Services*~~[Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board]~~ and is certified to participate as a home health agency under Title XVIII of the Social Security Act.
- (3) "Home health aide services" means those services provided by a home health aide and supervised by a registered nurse which are directed towards the personal care of the patient. Such services shall include, but not be limited to, the following:
 - (a) Helping the patient with bath and care of mouth, skin, and hair;
 - (b) Helping the patient to the bathroom or in using a bedpan;
 - (c) Helping the patient in and out of bed and assisting with ambulation;
 - (d) Helping the patient with prescribed exercises which the patient and home health aide have been taught by appropriate professional personnel;
 - (e) Assisting with medication ordinarily self-administered that has been specifically ordered by a physician or advanced practice registered nurse;
 - (f) Performing incidental household services as are essential to the patient's health care at home, if these services would have been performed if the patient was in a hospital or skilled nursing facility; and

- (g) Reporting changes in the patient's condition or family situation to the professional nurse supervisor.
- (4) "Nurse aide" means an individual, including a nursing student, medication aide, and a person employed through a nursing pool, who provides nursing or nursing related services to a resident in a nursing facility or home health agency, excluding:
 - (a) An individual who is a licensed health professional;
 - (b) A volunteer who provides the nursing or nursing-related services without monetary compensation; and
 - (c) A person who is hired by the resident or family to sit with the resident and who does not perform nursing or nursing-related services.

➔Section 13. KRS 205.713 is amended to read as follows:

All forms, child support orders, wage withholding orders, or orders amending an existing child support order, entered in any case in Circuit Court, District Court, or family court that require entry into the state case registry under KRS 205.712 ~~(4)(3)~~ shall be entered on forms adopted by the Administrative Office of the Courts after consultation with the Cabinet for Health and Family Services. If the provisions of a child support order are contained in an order that is narrative in nature, the adopted forms shall be used in addition to the narrative order.

➔Section 14. KRS 205.802 is amended to read as follows:

All forms, child support orders, wage withholding orders, or orders amending an existing child support order, entered in any case in Circuit, District, or Family Court that require entry into the state case registry pursuant to KRS 205.712 ~~(4)(3)~~ shall be entered on forms adopted by the Administrative Office of the Courts in coordination with the Cabinet for Health and Family Services. If the provisions of a child support order are contained in an order that is narrative in nature, the adopted forms shall be used in addition to the narrative order.

➔Section 15. KRS 211.670 is amended to read as follows:

- (1) All lists and medical records maintained by hospitals and medical laboratories pursuant to KRS 211.660 shall be confidential. All information collected and analyzed pursuant to KRS 211.660 ~~and 211.665~~ shall be held confidential as to the identity of the individual patient. Staff of the cabinet, the department, or its designee may use the information to notify parents of available medical care and other services available for the child and family. Further disclosure shall be made only pursuant to the written consent of the child's parent or legal guardian.
- (2) Access to information assembled by the Kentucky birth surveillance registry shall be limited to the cabinet, the department, or its designee and to qualified persons or organizations engaged in demographic, epidemiological or other similar studies related to health and health care provision. A written agreement to maintain confidentiality shall be required if access is approved for persons other than representatives of the cabinet.
- (3) The department shall maintain a record of all persons given access to the information in the Kentucky birth surveillance registry. The record shall include: the name of the person authorizing access; name, title, and organizational affiliation of person given access; dates of access; and the specific purpose for which information is to be used. This record of access shall be open to public inspection during normal operating hours of the department.
- (4) Information assembled by the Kentucky birth surveillance registry may be disclosed in summary, statistical, or other form which does not identify particular individuals or individual sources of information.
- (5) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided under KRS 211.660 ~~and 211.665~~ may be denied further access to confidential information maintained by the department.

➔Section 16. KRS 405.411 is amended to read as follows:

- (1) The Cabinet for Health and Family Services' designee under KRS 205.712 ~~(7)(6)~~ for the administration of child support may compile a list of the names of persons under its jurisdiction who have a child support arrearage that equals or exceeds six (6) months without payment, or fail, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16). The cabinet may furnish this list to the newspaper of general circulation in that county for publication.

- (2) The Department for Income Support, Child Support Enforcement, in the Cabinet for Health and Family Services shall determine uniform standards for publication. The cabinet is authorized to promulgate the necessary administrative regulations under KRS Chapter 13A to implement the provisions of this section.
- (3) For purposes of this section, "newspaper of general circulation" means a publication bearing a title or name, regularly issued at least as frequently as once a week for a definite price, having a second-class mailing privilege, being not less than four (4) pages, published continuously during the immediately preceding one (1) year period, which is published for the dissemination of news of general interest, and is circulated generally in the political subdivision in which it is published and in which notice is to be given. In any county where a publication fully complying with this definition does not exist, the Cabinet for Health and Family Services may publish this list in the publication utilized by the Circuit Court Clerk of the county for publication of other legal notices in the county. A newspaper that is not engaged in the distribution of news of general interest to the public, but that is primarily engaged in the distribution of news of interest to a particular group of citizens, is not a newspaper of general circulation.

➔Section 17. KRS 199.430 is amended to read as follows:

- (1) In the discharge of the duties imposed by KRS ~~199.420~~~~199.410~~ to 199.670 the secretary or his duly authorized representative may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda and other records considered necessary and relevant as evidence in connection with the administration of the cabinet. Such subpoena shall be served in the same manner as a subpoena issued out of a circuit court. Witnesses subpoenaed shall be allowed mileage allowance according to KRS 421.015 for each day their attendance is actually required at a hearing.
- (2) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda or other records in response to such subpoena on the grounds that the evidence required of him may tend to incriminate him or subject him to a penalty for forfeiture. No person shall be prosecuted or subjected to any suit, penalty, or forfeiture on account of any transaction, matter, or thing concerning which he or his agent or worker is compelled, after having claimed privilege against self-incrimination, to give evidence, except that such witness so testifying shall not be exempt from punishment for perjury.
- (3) All letters, reports, communications, and other matters, written or oral, to the cabinet or any of its agents, representatives, or employees, or to any board or official functioning under KRS ~~199.420~~~~199.410~~ to 199.670, which have been written, sent, or made in connection with the requirements and administration of the cabinet shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court, but no person testifying before the secretary or his duly authorized representative shall be exempt from punishment for perjury. Information obtained shall not be published or be open for public inspection, except to public employees in the performance of their duties, but any interested party at a hearing before the secretary or his duly authorized representative shall be supplied with information from such records to the extent necessary for the proper presentation of his case.

➔Section 18. KRS 211.670 is amended to read as follows:

- (1) All lists and medical records maintained by hospitals and medical laboratories pursuant to KRS 211.660 shall be confidential. All information collected and analyzed pursuant to KRS 211.660 ~~and 211.665~~ shall be held confidential as to the identity of the individual patient. Staff of the cabinet, the department, or its designee may use the information to notify parents of available medical care and other services available for the child and family. Further disclosure shall be made only pursuant to the written consent of the child's parent or legal guardian.
- (2) Access to information assembled by the Kentucky birth surveillance registry shall be limited to the cabinet, the department, or its designee and to qualified persons or organizations engaged in demographic, epidemiological or other similar studies related to health and health care provision. A written agreement to maintain confidentiality shall be required if access is approved for persons other than representatives of the cabinet.
- (3) The department shall maintain a record of all persons given access to the information in the Kentucky birth surveillance registry. The record shall include: the name of the person authorizing access; name, title, and organizational affiliation of person given access; dates of access; and the specific purpose for which information is to be used. This record of access shall be open to public inspection during normal operating hours of the department.
- (4) Information assembled by the Kentucky birth surveillance registry may be disclosed in summary, statistical, or other form which does not identify particular individuals or individual sources of information.

- (5) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided under KRS 211.660 ~~and 211.665~~ may be denied further access to confidential information maintained by the department.

➔Section 19. The following KRS sections are repealed:

- 194A.090 Citizen advisory bodies -- Public Health Services Advisory Council -- Institute for Aging.
- 199.380 Boarding and lodging homes for children under age sixteen -- Authority to operate -- Investigation -- Revocation of authority.
- 199.390 Record book of boarding or lodging home.
- 199.400 Security for care and custody of nonresident child accepted for boarding or lodging in this state.
- 199.410 Exceptions from KRS 199.380 to 199.400 -- Application only to counties containing city with population of 20,000 or more.
- 209.400 Legislative intent.
- 209.410 Definitions.
- 209.420 Senior and Physically Disabled Adult Discount Program for retail goods and services.
- 211.665 Advisory committee -- Duties.
- 211.674 Perinatal Advisory Committee -- Membership -- Meetings -- Report.
- 213.143 Commemorative copy of birth or marriage certificate -- Fee.
- 218A.150 License required to manufacture controlled substances.
- 218A.160 Criteria for issuance of license -- Appeal.

Signed by Governor April 10, 2018.

CHAPTER 113

(SB 123)

AN ACT relating to nursing facility beds approved by the state health plan.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

- (1) *The state health plan, as defined in KRS 216B.015, shall not permit any applications establishing nursing facility beds under a pilot program for post-acute transitional care in any county where the state health plan long-term care bed need calculations show that there is not a need for long-term care beds in the county.*
- (2) *The long-term care bed need calculations used under subsection (1) of this section shall be the calculations that were in effect as of January 5, 2018.*
- (3) *This section expires on the completion of any pilot program for post-acute transitional care permitted by the state health plan.*

Became law without Governor's signature April 11, 2018.

CHAPTER 114

(SB 132)

AN ACT relating to reorganization.

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

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

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

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

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

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Department of Public Advocacy.
- (2) Education and Workforce Development Cabinet:

- (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - 2. Governor's School for Entrepreneurs Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office for Education and Workforce Statistics.
 - (h) Board of the Kentucky Center for Education and Workforce Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 - 1. Kentucky Board of Education.
 - 2. Kentucky Technical Education Personnel Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
 - (m) Foundation for Workforce Development.
 - (n) Kentucky Office for the Blind State Rehabilitation Council.
 - (o) Kentucky Workforce Investment Board.
 - (p) Statewide Council for Vocational Rehabilitation.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:

- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas.
 - 7. Division of Mine Safety.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - 10. Office of the Reclamation Guaranty Fund.
- (d) Department for Energy Development and Independence.
 - 1. Division of Efficiency and Conservation.
 - 2. Division of Renewable Energy.
 - 3. Division of Biofuels.
 - 4. Division of Energy Generation Transmission and Distribution.
 - 5. Division of Carbon Management.
 - 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 - 1. Office of Communications and Public Outreach.
 - 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.

- c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
- (b) Kentucky Claims Commission.
- (c) Kentucky Boxing and Wrestling Commission.
- (d) Kentucky Horse Racing Commission.
 - 1. Office of Executive Director.
 - a. Division of Pari-mutuel Wagering and Compliance.
 - b. Division of Stewards.
 - c. Division of Licensing.
 - d. Division of Enforcement.
 - e. Division of Incentives and Development.
 - f. Division of Veterinary Services.
- (e) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
- (f) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (g) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (h) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (i) Department of Insurance.
 - 1. Division of Insurance Product Regulation.
 - 2. Division of Administrative Services.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Division of Consumer Protection.
 - 7. Division of Kentucky Access.
- (j) Department of Professional Licensing.
 - 1. Real Estate Authority.

- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - a. Workplace Standards Legal Division.
 - b. Workers' Claims Legal Division.
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.
 - 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 - 1. Division of Apprenticeship.
 - 2. Division of Occupational Safety and Health Compliance.
 - 3. Division of Occupational Safety and Health Education and Training.
 - 4. Division of Wages and Hours.
 - (e) Department of Workers' Claims.
 - 1. Division of Workers' Compensation Funds.
 - 2. Office of Administrative Law Judges.
 - 3. Division of Claims Processing.
 - 4. Division of Security and Compliance.
 - 5. Division of Information Services.
 - 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 - 7. Workers' Compensation Board.
 - (f) Workers' Compensation Funding Commission.
 - (g) Occupational Safety and Health Standards Board.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Employers' Mutual Insurance Authority.
 - (k) Kentucky Occupational Safety and Health Review Commission.
 - (l) Workers' Compensation Nominating Committee.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.

- (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
- (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Finance and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.

- (j) Department for Public Health.
- (k) Department for Medicaid Services.
- (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
- (m) Department for Aging and Independent Living.
- (n) Department for Community Based Services.
- (o) Department for Income Support.
- (p) Department for Family Resource Centers and Volunteer Services.
- (q) ~~Office~~~~Kentucky Commission on Community Volunteerism and Service.~~
- ~~(r) — Kentucky Commission~~ for Children with Special Health Care Needs.
- ~~(r)~~~~(s)~~ Governor's Office of Electronic Health Information.
- ~~(s)~~~~(t)~~ Office of Legislative and Regulatory Affairs.
- (9) Finance and Administration Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of the Inspector General.
 - (c) Office of Legislative and Intergovernmental Affairs.
 - (d) Office of General Counsel.
 - (e) Office of the Controller.
 - (f) Office of Administrative Services.
 - (g) Office of Policy and Audit.
 - (h) Department for Facilities and Support Services.
 - (i) Department of Revenue.
 - (j) Commonwealth Office of Technology.
 - (k) State Property and Buildings Commission.
 - (l) Office of Equal Employment Opportunity and Contract Compliance.
 - (m) Kentucky Employees Retirement Systems.
 - (n) Commonwealth Credit Union.
 - (o) State Investment Commission.
 - (p) Kentucky Housing Corporation.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
 - (x) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Tourism.
 - 1. Division of Tourism Services.

2. Division of Marketing and Administration.
3. Division of Communications and Promotions.
- (b) Kentucky Department of Parks.
 1. Division of Information Technology.
 2. Division of Human Resources.
 3. Division of Financial Operations.
 4. Division of Facilities Management.
 5. Division of Facilities Maintenance.
 6. Division of Customer Services.
 7. Division of Recreation.
 8. Division of Golf Courses.
 9. Division of Food Services.
 10. Division of Rangers.
 11. Division of Resort Parks.
 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
 1. Division of Law Enforcement.
 2. Division of Administrative Services.
 3. Division of Engineering, Infrastructure, and Technology.
 4. Division of Fisheries.
 5. Division of Information and Education.
 6. Division of Wildlife.
 7. Division of Marketing.
- (d) Kentucky Horse Park.
 1. Division of Support Services.
 2. Division of Buildings and Grounds.
 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 1. Office of Administrative and Information Technology Services.
 2. Office of Human Resources and Access Control.
 3. Division of Expositions.
 4. Division of Kentucky Exposition Center Operations.
 5. Division of Kentucky International Convention Center.
 6. Division of Public Relations and Media.
 7. Division of Venue Services.
 8. Division of Personnel Management and Staff Development.
 9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.

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

(j) Office of Public Affairs.

III. Other departments headed by appointed officers:

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

➔Section 2. KRS 18A.115 is amended to read as follows:

- (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:
 - (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
 - (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;
 - (c) Members of boards and commissions;
 - (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the Secretary of the Governor's Cabinet, and the Office of Program Administration;
 - (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;
 - (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;
 - (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;
 - (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the secretary approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the secretary. Effective August 1, 2010:
 1. All positions approved under this paragraph prior to August 1, 2010, shall be abolished effective December 31, 2010, unless reapproved under subparagraph 2. of this paragraph; and
 2. A position approved under this paragraph on or after August 1, 2010, shall be approved for a period of five (5) years, after which time the position shall be abolished unless reapproved under this subparagraph for an additional five (5) year period;
 - (i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;
 - (j) Physicians employed as such;

- (k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;
 - (l) The judicial department, referees, receivers, jurors, and notaries public;
 - (m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;
 - (n) Patients or inmates employed in state institutions;
 - (o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;
 - (p) Interim employees;
 - (q) Officers and members of the state militia;
 - (r) Department of Kentucky State Police troopers;
 - (s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;
 - (t) Superintendents of state mental institutions, including heads of centers for individuals with an intellectual disability, and penal and correctional institutions as referred to in KRS 196.180(2);
 - (u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;
 - (v) County and Commonwealth's attorneys and their respective appointees;
 - (w) Chief district engineers and the state highway engineer;
 - (x) Veterinarians employed as such by the Kentucky Horse Racing Commission;
 - (y) Employees of the Kentucky Peace Corps;
 - (z) Employees of the Council on Postsecondary Education;
 - (aa) Executive director of the Commonwealth Office of Technology;
 - (ab) Employees of *Serve Kentucky*~~[the Kentucky Commission on Community Volunteerism and Service]~~;
 - (ac) Persons employed in certified teaching positions at the Kentucky School for the Blind and the Kentucky School for the Deaf; and
 - (ad) Federally funded time-limited employees as defined in KRS 18A.005.
- (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.
 - (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.
 - (4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.
 - (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.
 - (6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the

employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

- (7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.
- (8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.
- (9) On May 1, 2017, all contract employees of Eastern Kentucky University who are engaged in providing instructional and support services to the Department of Criminal Justice Training shall be transferred to the personnel system under KRS Chapter 18A. All records shall be transferred, including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems for Eastern Kentucky University and under KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No employee shall suffer any penalty in the transfer.

➔Section 3. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of Communications and Administrative Review, an Office of Legal Services, an Office of Inspector General, an Office of the Ombudsman, and the Governor's Office of Electronic Health Information.
 - (a) The Office of Communications and Administrative Review shall include oversight of administrative hearings and communications with internal and external audiences of the cabinet. The Office of Communications and Administrative Review shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
 - (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
 - (c) The Office of Inspector General shall be responsible for:
 - 1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 - 2. Licensing and regulatory functions as the secretary may delegate;

3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963; and
4. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary.

- (d) The Office of the Ombudsman shall provide professional support in the evaluation of programs, including but not limited to quality improvement and information analysis and reporting, contract monitoring, program monitoring, and the development of quality service delivery, and a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies. The Office of the Ombudsman shall place an emphasis on research and best practice and program accountability and shall monitor federal compliance. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.
 - (e) The Governor's Office of Electronic Health Information shall provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services. The Governor's Office of Electronic Health Information shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
 - (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. This shall include but not be limited to oversight of the Division of Women's Health. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
 - (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall develop and administer programs for the prevention of mental illness, intellectual disabilities, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have an intellectual disability, brain injury, developmental disability, or a substance abuse disorder. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall be headed by a commissioner for behavioral health, developmental and intellectual disabilities who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for behavioral health, developmental and intellectual disabilities shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for behavioral health, developmental and intellectual disabilities shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;

- (5) ~~Office~~~~[Commission]~~ for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the ~~office~~~~[commission]~~. The ~~office~~~~[commission]~~ shall advocate the rights of children with disabilities and, to the extent that funds are available, shall ensure the administration of services for children with disabilities as are deemed appropriate by *this office*~~[the commission]~~ pursuant to Title V of the Social Security Act. The ~~office~~~~[commission]~~ may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the ~~Office~~~~[Commission]~~ for Children with Special Health Care Needs shall be performed through the office of the executive director. The executive director shall be appointed by the secretary with the approval of the Governor under KRS 12.050;
- (6) Office of Health Policy. The Office of Health Policy shall lead efforts to coordinate health care policy, including Medicaid, behavioral health, developmental and intellectual disabilities, mental health services, services for individuals with an intellectual disability, public health, certificate of need, and health insurance. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office. The Office of Health Policy shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050;
- (7) Department for Family Resource Centers and Volunteer Services. The Department for Family Resource Centers and Volunteer Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Family Resource and Youth Services Centers and ~~Serve Kentucky~~~~[the Kentucky Commission on Community Volunteerism and Services]~~. The Department for Family Resource Centers and Volunteer Services shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for family resource centers and volunteer services shall be by training and experience in administration and management qualified to perform the duties of the office, shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- (8) Office of Administrative and Technology Services. The Office of Administrative and Technology Services shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The office shall have responsibility for properties and facilities owned, maintained, or managed by the cabinet. The Office of Administrative and Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall exercise authority over the Office of Administrative and Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (9) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (10) The Office of Finance and Budget shall provide central review and oversight of budget, contracts, and cabinet finances. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (11) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, violence prevention resources, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (12) Department for Income Support. The Department for Income Support shall be responsible for child support enforcement and disability determination. The department shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

- (13) Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of adult day care and assisted living facilities, the state Council on Alzheimer's Disease and other related disorders, the Institute on Aging, and guardianship services. The department shall also administer the Long-Term Care Ombudsman Program and the Medicaid Home and Community Based Waivers Consumer Directed Option (CDO) Program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
- (14) The Office of Legislative and Regulatory Affairs shall provide central review and oversight of legislation, policy, and administrative regulations. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

➔Section 4. KRS 194A.570 is amended to read as follows:

~~[(1) As used in KRS 194A.570 to 194A.578, "commission" means the Kentucky Commission on Community Volunteerism and Service.~~

~~[(2) The Kentucky Commission on Community Volunteerism and Service]~~**Serve Kentucky** is created and shall be attached to the Cabinet for Health and Family Services for oversight, technical, and administrative support purposes. A director and other appropriate staff shall be hired by **Serve Kentucky**~~[the commission]~~ when federal funds become available.

➔Section 5. KRS 194A.572 is amended to read as follows:

Serve Kentucky~~[The commission]~~ shall initially consist of twenty-five (25) voting members who shall be appointed by the Governor. Membership on **Serve Kentucky**~~[the commission]~~ shall be for a three (3) year term, with the exception that initially one third (1/3) of the members shall serve for a term of one (1) year, one-third (1/3) of the members shall serve for a term of two (2) years, and one-third (1/3) of the members shall serve for a term of three (3) years. After the first six (6) months of operations, the Governor reserves the option to request **Serve Kentucky**~~[the commission]~~ to submit recommendations for any additional members deemed necessary to balance **Serve Kentucky's**~~[the commission's]~~ perspective, provided that **Serve Kentucky's**~~[the commission's]~~ membership does not exceed twenty-five (25). **Serve Kentucky**~~[The commission]~~ shall annually select from its membership a chair to serve for a term of one (1) year.

➔Section 6. KRS 194A.575 is amended to read as follows:

The purpose of **Serve Kentucky**~~[the commission]~~ is to engage in statewide strategic planning, establish relevant policies, provide administrative oversight, and promote programs and strengthen the service ethic among the Commonwealth's citizens by facilitating the development of strategic programs that enable citizens to address serious societal problems including, but not limited to, education reform through service to local communities.

➔Section 7. KRS 194A.578 is amended to read as follows:

Serve Kentucky~~[The commission]~~ shall:

- (1) Develop a strategic plan for service in Kentucky which covers a three (3) year period, and supporting efforts to achieve the goals of this plan. The plan shall be updated annually;
- (2) Oversee and submit Kentucky's annual applications to the Corporation for National Service, the federal funding authority, and other funding sources for the continuation and any expansion of the current Kentucky Serve initiative;
- (3) Conduct a competitive application process to determine the organizations that will be awarded subgrants to operate national service programs;
- (4) Fulfill any other responsibilities required by the Corporation for National Service and other funding sources; and

- (5) Promulgate administrative regulations pursuant to KRS Chapter 13A to establish operational guidelines for *Serve Kentucky*~~{the commission}~~.

➔Section 8. KRS 200.460 is amended to read as follows:

- (1) The *Office*~~{Commission}~~ for Children with Special Health Care Needs shall provide through contractual agreement, or otherwise, such services as may be necessary to locate, diagnose, treat, habilitate, or rehabilitate children with disabilities, and may include any necessary auxiliary services, such as room and board and travel for patients and parents or parent substitutes.
- (2) Children referred to the care of the *Office*~~{Commission}~~ for Children with Special Health Care Needs for treatment shall be placed under the care of those physicians or surgeons that the *Office*~~{Commission}~~ for Children with Special Health Care Needs deems qualified and may be placed in a hospital or home properly equipped to render the necessary treatment or services required by the child.
- (3) The *Office*~~{Commission}~~ for Children with Special Health Care Needs is authorized to make those expenditures necessary to carry out the provisions of this section and KRS 200.470 to 200.490.
- (4) Any administrative appeal of a decision of the *office*~~{commission}~~ shall be conducted in accordance with KRS Chapter 13B.

➔Section 9. KRS 200.470 is amended to read as follows:

- (1) No child shall be accepted for care or treatment by the *Office*~~{Commission}~~ for Children with Special Health Care Needs if his parents or legal guardian are able to pay for such treatment except where the child resides in an area of the state where adequate care and treatment are not otherwise available, in which event referral must be made by the doctor caring for the child and the parents or guardian shall reimburse the *Office*~~{Commission}~~ for Children with Special Health Care Needs for all cost expended by the *office*~~{commission}~~ for treatment.
- (2) In the event the *Office*~~{Commission}~~ for Children with Special Health Care Needs determines that the parents or legal guardian of a child with a disability can pay only a portion of the cost of treatment through their own resources or through resources available to them, such parents or guardian shall pay such sums as they are able to pay and the funds thus received shall be turned over to the *Office*~~{Commission}~~ for Children with Special Health Care Needs and applied to the cost of treatment and care of the child.

➔Section 10. KRS 200.480 is amended to read as follows:

The *Office*~~{Commission}~~ for Children with Special Health Care Needs shall make a biennial report to the Governor showing the amount of money received and expended and a detailed statement of its activities for such period. A copy of such report shall be furnished each member of the General Assembly at its first session following the filing of such report with the Governor.

➔Section 11. KRS 200.490 is amended to read as follows:

All information as to medical data, personal facts, and circumstances obtained by the *Office*~~{Commission}~~ for Children with Special Health Care Needs staff shall constitute privileged communications, shall be held confidential and shall not be divulged without the consent of the father, mother, guardian, person who committed the child, or the patient involved, except as may be necessary to provide additional services to children through other medical, welfare or service agencies and institutions. Such information may be disclosed in summary, statistical or other form which does not identify particular individuals.

➔Section 12. KRS 200.495 is amended to read as follows:

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

- (1) ~~["Commission" means the Kentucky Commission for Children with Special Health Care Needs, the Kentucky Crippled Children's Program, and the Kentucky Program of Health Services to children with special health care needs.~~
- ~~(2)~~—"Recipient" means any person who has received medical services provided by the *Office for Children with Special Health Care Needs* ~~{commission}~~ or who has received medical services paid for on his behalf by the *office*~~{commission}~~.
- ~~(2)~~~~(3)~~ "Medical services" means medical or medically-related institutional or noninstitutional services which are provided to a recipient or paid for by the *Office for Children with Special Health Care Needs* ~~{commission}~~ on behalf of a recipient.

- (3)(4) "Third-party coverage" means any public or private party who is liable to provide medical services or to make medical services benefit payments to a recipient or other provider for medical services provided to a recipient under the terms of any contract, health insurance policy, health insurance plan, settlement, or award.

➔Section 13. KRS 200.497 is amended to read as follows:

Third-party coverage for medical services provided by the *Office for Children with Special Health Care Needs*~~[commission]~~ to clients of the *office*~~[commission]~~ shall be considered primary coverage in all instances. The *office's*~~[commission's]~~ liability for coverage for medical services to its clients shall be considered residual to third-party coverage in all instances.

➔Section 14. KRS 200.499 is amended to read as follows:

- (1) An applicant for or recipient of medical services provided by or paid for by the *Office for Children with Special Health Care Needs*~~[commission]~~ shall inform the *office*~~[commission]~~ of any rights that the applicant or recipient has to third-party payments for medical services at the time of initial application for services or at any time thereafter when such third-party payment should become available. The *office*~~[commission]~~ shall automatically be subrogated to any rights the recipient has to third-party payment for medical services.
- (2) The *office*~~[commission]~~ shall recover the full cost of medical services provided to a recipient and shall recover any payments made for medical services on his behalf directly from:
 - (a) Any third party liable to make a medical benefit payment to the provider of the recipient's medical services or to the recipient under the terms and provisions of any contract, health insurance policy, health insurance plan, settlement, or award;
 - (b) The recipient, if he *or she* has received third-party payment for medical services that have been provided to him; or
 - (c) The provider of the recipient's medical services if third-party payment for medical services has been recovered by the provider.
- (3) A recipient of medical services provided by the *office*~~[commission]~~ or paid for by the *office*~~[commission]~~ shall be deemed to have made an assignment to the *office*~~[commission]~~ of any right such recipient has to any payment for such medical services from a third party.
- (4) A recipient of medical services provided by the *office*~~[commission]~~ or paid for by the *office*~~[commission]~~ shall be deemed to have provided the *office*~~[commission]~~ the authority to release medical information with respect to such medical services for the purpose of obtaining reimbursement from a third party.
- (5) The *office*~~[commission]~~ may, in order to enforce its subrogation rights under this section, institute, intervene in, or join any legal proceeding against any third party against whom recovery rights arise. No action taken by the *office*~~[commission]~~ shall operate to deny the recipient recovery for that portion of his damage not subrogated to the *office*~~[commission]~~ and no action of the recipient shall prejudice the subrogation rights of the *office*~~[commission]~~.
- (6) When the *office*~~[commission]~~ provides, pays for, or becomes liable for the medical services, and their costs, of a recipient, it shall have a lien for the full amount of the cost of such medical services upon any and all causes of action which accrue to the recipient or to his legal representatives, as a result of sickness, injury, disease, disability, or death due to the liability of a third party which necessitated the medical service. The *office*~~[commission]~~ shall have one (1) calendar year from the date when the last item of medical services relative to a specific accident or spell of illness was provided or paid for in which to file its verified lien statement. The statement shall be filed with the clerk of the Circuit Court in the recipient's county residence. The verified lien statement shall contain the name and address of the recipient of medical services; the date of the injury or accident; the name and address of the vendor or vendors furnishing medical services to the recipient; the date of the medical services; the amount claimed to be due the *office*~~[commission]~~ for the medical services provided or paid for; and, to the best knowledge of the *office*~~[commission]~~, the names and addresses of all persons or corporations claimed to be liable for damages arising from the injuries. The *office's*~~[commission's]~~ failure to file a lien shall not affect the *office's*~~[commission's]~~ subrogation rights provided for in subsection (1) of this section.
- (7) In recovering any payment in accordance with this action, the *office*~~[commission]~~ is authorized to make appropriate settlements.

Signed by Governor April 10, 2018.

CHAPTER 115**(SB 133)**

AN ACT relating to crimes and punishments.

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

➔Section 1. KRS 441.055 is amended to read as follows:

- (1) The Department of Corrections shall for those counties which elect to house state prisoners in their jail:
 - (a) Adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order Number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. These standards shall include, but not be limited to, rules governing the following areas:
 1. Health and safety conditions;
 2. Fire safety;
 3. Jail operations, recordkeeping, and administration;
 4. Curriculum of basic and continuing annual training for jailers and jail personnel;
 5. Custody, care, and treatment of prisoners;
 6. Medical care; and
 7. Jail equipment, renovation, and construction;
 - (b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary. The jail standards shall be reviewed no later than December 31, 1992, and at least every two (2) years thereafter. Fifty percent (50%) of the participants in the review process shall be appointed from persons representing county interests and fifty percent (50%) shall be appointed from persons representing state interests; and
 - (c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.
- (2) The department shall, for those counties that elect not to hold state prisoners in their jails, adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations pursuant to KRS Chapter 13A to establish minimum standards for those jails. These standards shall be limited to health and life safety.
- (3) *All minimum standards promulgated by the department applying to jails shall include requirements for adequate nutrition for pregnant prisoners, an adequate number of hygiene products for female prisoners, and an appropriate number of undergarments for female prisoners.*
- (4) The department may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section, an inmate housed in a jail, penitentiary, or local or state correctional or detention facility, residential center, or reentry center who is known to be pregnant shall be restrained solely with handcuffs in front of her body unless further restraint is required to protect herself or others.*
- (2)
 - (a) *Except in an extraordinary circumstance, no inmate who is known to be pregnant shall be restrained during labor, during transport to a medical facility or birthing center for delivery, or during postpartum recovery.*
 - (b) *As used in this subsection, "extraordinary circumstance" means that reasonable grounds exist to believe the inmate presents an immediate and credible:*

1. *Serious threat of hurting herself, staff, or others; or*
2. *Risk of escape that cannot be reasonably minimized through any method other than restraints.*

➔Section 3. KRS 197.020 is amended to read as follows:

- (1) The Department of Corrections shall:
 - (a) Promulgate administrative regulations for the government and discipline of the penitentiary, for the government and official conduct of all officials connected with the penitentiary, and for the government of the prisoners in their department and conduct;
 - (b) Promulgate administrative regulations for the character of food and diet of the prisoners; the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; the quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;
 - (c) Promulgate administrative regulations, as the department deems necessary, for the disposition of abandoned, lost, or confiscated property of prisoners;
 - (d) Promulgate administrative regulations for the administration of a validated risk and needs assessment to assess the criminal risk factors and correctional needs of all inmates upon commitment to the department;
 - (e) *Promulgate administrative regulations to create a certification process for county jails that may house female state inmates. The administrative regulations shall include a requirement of a physical barrier between male and female inmates;* and
 - ~~(f)(e)~~ Cause the administrative regulations promulgated by the department, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.
- (2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.
- (3) The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.
- (4) Fees for the use of medical facilities by a state prisoner who is confined in a county jail pursuant to KRS 532.100 or other statute shall be governed by KRS 441.045.

➔Section 4. KRS 532.100 is amended to read as follows:

- (1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.
- (2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.
- (3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.
- (4)
 - (a) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1), or a crime under KRS 17.510(11) or (12), the sentence shall be served in a state institution. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.
 - (b) The provisions of KRS 500.080(5) notwithstanding, a Class D felon who received a sentence of more than five (5) years for nonviolent, nonsexual offenses, but who currently has less than five (5) years remaining to be served, may serve the remainder of his or her term in a county jail in a county in which the fiscal court has agreed to house state prisoners.

- (c)
 - 1. The provisions of KRS 500.080(5) notwithstanding, and except as provided in subparagraph 2. of this paragraph, a Class C or D felon with a sentence of more than five (5) years who is classified by the Department of Corrections as community custody shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners if:
 - a. Beds are available in the county jail;
 - b. State facilities are at capacity; and
 - c. Halfway house beds are being utilized at the contract level as of July 15, 2000.
 - 2. When an indeterminate sentence of two (2) years or more is imposed on a felon convicted of a sex crime, as defined in KRS 17.500, or any similar offense in another jurisdiction, the sentence shall be served in a state institution.
 - 3. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.
 - (d) Any jail that houses state inmates under this subsection shall offer programs as recommended by the Jail Standards Commission. The Department of Corrections shall adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations establishing required programs for a jail that houses state inmates under this subsection.
 - (e) ***Before housing any female state inmate, a county jail shall be certified pursuant to Section 3 of this Act.***
- (5) The jailer of a county in which a Class D felon or a Class C felon is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.
 - (6) Class D felons and Class C felons serving their time in a local jail shall be considered state prisoners, and the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2).
 - (7) State prisoners, excluding the Class D felons and Class C felons qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.
 - (8)
 - (a) Class D felons eligible for placement in a local jail may be permitted by the warden or jailer to participate in any approved community work program or other form of work release with the approval of the commissioner of the Department of Corrections.
 - (b) The authority to release an inmate to work under this subsection may be exercised at any time during the inmate's sentence, including the period when the court has concurrent authority to permit work release pursuant to KRS 439.265.
 - (c) The warden or jailer may require an inmate participating in the program to pay a fee to reimburse the warden or jailer for the cost of operating the community work program or any other work release program. The fee shall not exceed the lesser of fifty-five dollars (\$55) per week or twenty percent (20%) of the prisoner's weekly net pay earned from the community work program or work release participation. In addition, the inmate may be required to pay for any drug testing performed on the inmate as a requirement of the community work program or work release participation.
 - (d) This subsection shall not apply to an inmate who:
 - 1. Is not eligible for work release pursuant to KRS 197.140;
 - 2. Has a maximum or close security classification as defined by administrative regulations promulgated by the Department of Corrections;
 - 3. Is subject to the provisions of KRS 532.043; or

4. Is in a reentry center as defined in KRS 441.005.

➔Section 5. Section 4 of this Act takes effect January 1, 2019.

➔Section 6. KRS 403.725 is amended to read as follows:

- (1) A petition for an order of protection may be filed by:
 - (a) A victim of domestic violence and abuse; or
 - (b) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.
- (2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape domestic violence and abuse.
- (3) The petition shall be verified and contain:
 - (a) The name, age, address, occupation, residence, and school or postsecondary institution of the petitioner;
 - (b) The name, age, address, occupation, residence, and school or postsecondary institution of the person or persons who have engaged in the alleged act or acts complained of in the petition;
 - (c) The facts and circumstances which constitute the basis for the petition;
 - (d) The date and place of the marriage of the parties, if applicable; and
 - (e) The names, ages, and addresses of the petitioner's minor children, if applicable.
- (4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief by the circuit clerk or by another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers, ~~and~~ Commonwealth's or county attorneys, **and regional rape crisis centers or domestic violence shelters.**
- (5) All petitions requested, completed, and signed by persons seeking protection under this chapter shall be accepted and filed with the court.
- (6)
 - (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court and a petition may be filed by a petitioner in either court, except that a petition shall be filed in a family court if one has been established in the county where the petition is filed.
 - (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to orders of protection in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
 - (c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
 - (d)
 1. ***In addition to the protocols for twenty-four (24) hour access established under paragraphs (b) and (c) of this subsection, before January 1, 2019, the Court of Justice shall provide protocols for filing, including electronic filing, of petitions for orders of protection at those regional rape crisis centers designated under KRS 211.600, or regional domestic violence shelters designated under KRS 209A.045, that elect to participate in any county's twenty-four (24) hour access protocol.***
 2. ***These protocols shall be subject to Supreme Court review for approval of the initial protocol and any subsequent amendments.***
- (7) Any judge to whom a petition is referred under subsection (6) of this section shall have full authority to review and hear a petition and subsequently grant and enforce an order of protection.
- (8) If the judge of a court in which there is a pending request for modification or enforcement of an existing order of protection is unavailable or unable to act within a reasonable time, the proceedings may be conducted by any judge of the county in accordance with court rules.

➔Section 7. KRS 456.030 is amended to read as follows:

- (1) A petition for an interpersonal protective order may be filed by:
 - (a) A victim of dating violence and abuse;

- (b) A victim of stalking;
 - (c) A victim of sexual assault; or
 - (d) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.
- (2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape dating violence and abuse, stalking, or sexual assault.
- (3) The petition shall be verified and contain:
- (a) The name, age, address, occupation, residence, and school or postsecondary institution of the petitioner;
 - (b) The name, age, address, occupation, residence, and school or postsecondary institution of the person or persons who have engaged in the alleged act or acts complained of in the petition;
 - (c) The facts and circumstances which constitute the basis for the petition; and
 - (d) The names, ages, and addresses of the petitioner's minor children, if applicable.
- (4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief by the circuit clerk or by another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers, ~~and~~ Commonwealth's or county attorneys, **and regional rape crisis centers or domestic violence shelters.**
- (5) All petitions requested, completed, and signed by persons seeking protection under this chapter shall be accepted and filed with the court.
- (6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court.
- (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to interpersonal protective orders in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
- (c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
- (d) **1. In addition to the protocols for twenty-four (24) hour access established under paragraphs (b) and (c) of this subsection, before January 1, 2019, the Court of Justice shall provide protocols for filing, including electronic filing, of petitions for orders of protection at those regional rape crisis centers designated under KRS 211.600, or regional domestic violence shelters designated under KRS 209A.045, that elect to participate in any county's twenty-four (24) hour access protocol.**
- 2. These protocols shall be subject to Supreme Court review for approval of the initial protocol and any subsequent amendments.**
- (7) Any judge to whom a petition is referred under subsection (6) of this section shall have full authority to review and hear a petition and subsequently grant and enforce an interpersonal protective order.
- (8) If the judge of a court in which there is a pending request for modification or enforcement of an existing order of protection is unavailable or unable to act within a reasonable time, the proceedings may be conducted by any judge of the county in accordance with court rules.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Eligible person" means a person who is:*
 - 1. A pregnant woman;**
 - 2. Reasonably believed by a court or the department to have a substance use disorder;**
 - 3. Not charged or convicted of an offense that would qualify the person as a violent offender under KRS 439.3401; and**

4. *Not charged or convicted of an offense under KRS Chapter 510, KRS 529.100 involving commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or 531.320; and*
- (b) *"Pregnancy release conditions" means conditions of release set by a court or the department for eligible persons which shall include:*
 1. *Completing inpatient residential treatment for substance use disorders;*
 2. *Not being charged with a new local, state, or federal misdemeanor or felony offense;*
 3. *If not yet sentenced, appearing for all required court appearances;*
 4. *If not yet sentenced, avoiding all contact with any alleged victim and any potential witness who may testify concerning the charge, unless or until the court removes this condition; and*
 5. *If not yet sentenced, maintaining a current address with the court.*
- (2) *Except as provided in subsection (3) of this section and notwithstanding any other statute to the contrary, when an eligible person is charged or convicted of any violation of KRS Chapter 218A, the person shall be released from custody upon her own recognizance so long as the person successfully meets the pregnancy release conditions. If the pregnancy release conditions are violated, the eligible person shall be returned to custody to await sentencing or to serve the sentence for the original conviction under KRS Chapter 218A as well as the sentence for any subsequent charges or convictions, if any.*
- (3) *If an eligible person is housed in a jail that provides treatment for substance use disorders or in a jail that transports prisoners for treatment, this section shall not apply.*
 ➔Section 9. KRS 431.517 is amended to read as follows:
 - (1) Except as provided in this section, home incarceration may be ordered as a form of pretrial release, subject to the conditions imposed by the provisions of KRS 532.200 to 532.250.
 - (2) *No defendant charged with an offense under KRS Chapter 507 may be released on home incarceration unless the court makes a finding that the defendant would not pose a threat to society.*
 - (3) A court ordering home incarceration as a form of pretrial release pursuant to this section may order the defendant to participate in a global positioning monitoring system program during all or part of the time of pretrial release through the use of a county-operated program pursuant to KRS 67.372 and 67.374 and not a program operated by the Department of Corrections pursuant to KRS 532.210 to 532.250.
 - ~~(4)(3)~~ A court ordering global positioning monitoring system program participation for a defendant pursuant to this section shall:
 - (a) Require the defendant to pay all or the part of the monitoring costs based on the sliding scale adopted by the Supreme Court of Kentucky as specified in KRS 403.761 and administrative costs for participating in the system;
 - (b) Provide the monitoring system with a written or electronic copy of the conditions of release; and
 - (c) Provide the monitoring system with a contact at the office of the circuit clerk, Commonwealth's attorney, or county attorney, as appropriate, or pretrial release services for reporting violations of the monitoring order.
 - ~~(5)(4)~~ A person, county, or other organization may voluntarily agree to pay all or a portion of a defendant's monitoring costs specified in KRS 403.761.
 ➔Section 10. KRS 439.3401 is amended to read as follows:
 - (1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:
 - (a) A capital offense;
 - (b) A Class A felony;
 - (c) A Class B felony involving the death of the victim or serious physical injury to a victim;
 - (d) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer or firefighter while the officer or firefighter was acting in the line of duty;

- (e) *A Class B felony involving criminal attempt to commit murder under KRS 506.010 if the victim of the offense is a clearly identifiable peace officer or firefighter acting in the line of duty, regardless of whether an injury results;*
- (f) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;
- ~~(g)(f)~~ Use of a minor in a sexual performance as described in KRS 531.310;
- ~~(h)(g)~~ Promoting a sexual performance by a minor as described in KRS 531.320;
- ~~(i)(h)~~ Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
- ~~(j)(i)~~ Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;
- ~~(k)(j)~~ Criminal abuse in the first degree as described in KRS 508.100;
- ~~(l)(k)~~ Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
- ~~(m)(l)~~ Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or
- ~~(n)(m)~~ Robbery in the first degree.

The court shall designate in its judgment if the victim suffered death or serious physical injury.

- (2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his or her sentence is commuted to a life sentence shall not be released on probation or parole until he or she has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.
- (3)
 - (a) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.
 - (b) A violent offender who has been convicted of a violation of KRS 507.040 where the victim of the offense was clearly identifiable as a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.
 - (c) A violent offender who has been convicted of a violation of KRS 507.040 or 507.050 where the victim of the offense was a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.
 - (d) Any offender who has been convicted of a homicide or fetal homicide offense under KRS Chapter 507 or 507A in which the victim of the offense died as the result of an overdose of a Schedule I controlled substance and who is not otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.
- (4) A violent offender shall not be awarded any credit on his sentence authorized by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his or her sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.
- (5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.
- (6) This section shall apply only to those persons who commit offenses after July 15, 1998.
- (7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.

- (8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

➔Section 11. KRS 441.127 is amended to read as follows:

- (1) The jailer or correctional services department shall grant sentence credits to inmates confined in the county jail on conviction of misdemeanor charges.
- (2) Credit, if granted, shall be uniform and shall be based on the following:
- (a) For labor performed without the jail in a community service program or within the jail for the maintenance of the jail or for the operation of jail services such as food service:
 - 1. For every eight (8) full hours of work, one (1) sentence credit shall be earned; and
 - 2. For every five (5) of sentence credits earned, one (1) day of the sentence to be served by the inmate shall be deducted;
 - (b) For successfully receiving a general equivalency diploma or a high school diploma, a service credit of **ninety (90)**~~thirty (30)~~ days shall be earned;
 - (c) ***For each day an inmate participates in a drug treatment program or other evidence-based program approved by the department, a service credit of one (1) day shall be earned;***
 - (d) ***For performing exceptionally meritorious service, performing duties of outstanding importance in connection with the jail's operations and programs, or performing acts of exceptional service during times of emergency, an amount not to exceed seven (7) days per act shall be earned, to be determined by the jailer or chief executive of the jail for the conduct of the inmate; and***
 - (e)~~(e)~~ For good behavior, an amount not to exceed **ten (10)**~~five (5)~~ days shall be earned for each month served, to be determined by the jailer or chief executive of the jail for the conduct of the inmate.
- (3) Sentence credits shall be deducted from the maximum expiration date of the sentence.
- ~~(4)~~~~(3)~~ If an inmate violates the rules of the jail or engages in other misconduct the jailer or correctional services department may withdraw sentence credits earned by the inmate. The jailer or correctional services department shall maintain a list of offenses and penalties for the ten (10) most common offenses and rule violations.

➔Section 12. This Act shall be known as the Women's Dignity in the Justice System Act.

Signed by Governor April 10, 2018.

CHAPTER 116

(SB 137)

AN ACT relating to the Kentucky Rules of Evidence.

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

➔SECTION 1. A NEW SECTION OF THE KENTUCKY RULES OF EVIDENCE 801 TO 806 IS CREATED TO READ AS FOLLOWS:

- (a) ***An out-of-court statement made by a child with a physical, mental, emotional, or developmental age of twelve (12) years or less at the time of trial or hearing describing any sexual act performed by, with, or on the child or describing any act of physical violence directed against the child is not excluded as hearsay under KRE 802 if all of the following apply:***
- (1) ***The court finds that the totality of the circumstances surrounding the making of the statement provides particularized guarantees of trustworthiness. In making its determination of the reliability of the statement, the court shall consider all of the circumstances surrounding the making of the statement, including but not limited to spontaneity, the internal consistency of the statement, the mental state of the child, the child's motive or lack of motive to fabricate, the child's use of***

terminology unexpected of a child of similar age, the means by which the statement was elicited, and the lapse of time between the act and the statement;

- (2) *Either:*
 - (A) *The child testifies but his or her testimony does not include information contained in the out-of-court statement; or*
 - (B) *The child's testimony is not reasonably obtainable by the proponent of the statement and there is corroborative evidence of the act that is the subject of the statement;*
 - (3) *The primary purpose of the child's statement was not to create an out-of-court substitute for trial testimony; and*
 - (4) *At least ten (10) days before the trial or hearing, a proponent of the statement has notified all other parties in writing of the content of the statement, the time and place at which the statement was made, the identity of the witness who is to testify about the statement, and the circumstances surrounding the statement that are claimed to indicate its trustworthiness.*
- (b) (1) *The child's testimony is "not reasonably obtainable by the proponent of the statement" under subsection (a)(2)(B) of this rule if one (1) or more of the following apply:*
- (A) *The child claims a lack of memory of the subject matter of the statement;*
 - (B) *The court finds:*
 - (i) *The child is absent from the trial or hearing;*
 - (ii) *The proponent of the statement has been unable to procure the child's attendance or testimony by process or other reasonable means despite a good-faith effort to do so; and*
 - (iii) *It is probable that the proponent would be unable to procure the child's testimony or attendance if the trial or hearing were delayed for a reasonable time; or*
 - (C) *The court finds:*
 - (i) *The child is unable to testify at the trial or hearing because of:*
 - a. *Death;*
 - b. *Physical or mental illness; or*
 - c. *Infirmity, including the child's inability to communicate about the offense because of fear or a similar reason; and*
 - (ii) *The illness or infirmity would not improve sufficiently to permit the child to testify if the trial or hearing were delayed for a reasonable time.*
- (2) *The proponent of the statement has not established that the child's testimony or attendance is not reasonably obtainable if the child's claim of lack of memory, absence, or inability is due to the procurement or wrongdoing of the proponent of the statement for the purpose of preventing the child from attending or testifying.*
- (c) *The court shall make the findings required by this rule on the basis of a hearing conducted outside the presence of the jury and shall make findings of fact, on the record, as to the bases for its ruling.*
- (d) *If any provision of this rule should conflict with Article VIII of these rules, this rule shall prevail.*

Signed by Governor April 10, 2018.

CHAPTER 117

(SB 139)

AN ACT relating to ownership documents for property.

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

➔Section 1. KRS 382.135 is amended to read as follows:

- (1) In addition to any other requirement imposed by law, a deed to real property shall contain the following:
 - (a) The full name of the grantor and grantee;
 - (b) The mailing addresses of the grantor and grantee;
 - (c) A statement of the full consideration;
 - (d) A statement indicating the in-care-of address to which the property tax bill for the year in which the property is transferred may be sent; and
 - (e)
 1. In the case of a transfer other than by gift, or with nominal or no consideration a sworn, notarized certificate signed by the grantor or his or her agent and the grantee or his or her agent, or the parent or guardian of a person under eighteen (18) years old, that the consideration reflected in the deed is the full consideration paid for the property; or
 2. In the case of a transfer either by gift or with nominal or no consideration, a sworn, notarized certificate signed by the grantor or his or her agent and the grantee or his or her agent, or the parent or guardian of a person under eighteen (18) years old, stating that the transfer is by gift and setting forth the estimated fair cash value of the property.
- (2) The deed filing requirements listed in subsection (1)(c), (d), and (e) of this section shall not apply to:
 - (a) Deeds which only convey utility easements;
 - (b) Deeds which transfer property through a court action pursuant to a divorce proceeding;
 - (c) Deeds which convey rights-of-way that involve governmental agencies;
 - (d) Deeds which convey cemetery lots;
 - (e) Deeds which correct errors in previous deeds conveying the same property from the same grantor to the same grantee; or
 - (f) Deeds which convey real property to a local airport board.
- (3) In the case of an exchange of properties, the fair cash value of the property being exchanged shall be stated in the body of the deed.
- (4) In the event of a transfer of property by will or under the laws of intestate succession, the personal representative of the estate, prior to closing out the estate, shall file an affidavit with the county clerk of each county in which any of the property is located, which shall contain the following:
 - (a) The names and addresses of the persons receiving each property passing by will or intestate succession; and
 - (b) The full or fair market value of each property as estimated or established for any purpose in the handling of the estate, or a statement that no such values were estimated or established.
- (5) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.
- (6) For purposes of subsection (1)(a) of this section, ***the full name of the grantor and grantee shall be determined as follows:***
 - (a) ~~The full name of an individual shall be determined as provided in KRS 355.9-503(1)(d) and (e);~~
~~or~~~~and~~
 - (b) ~~For~~~~The full name of~~ a business entity, ***it*** shall be synonymous with its real name determined as provided in KRS 365.015(1)(b) and (c); ***or***
 - (c) ***For an individual, his or her surname and his or her first personal name or initial, middle personal name or names, or initial or initials, or any combination thereof that includes the individual's surname.***
- (7) ***The receipt for record and recording of any instrument by the county clerk not in compliance with the provisions of this section shall not prevent the record of filing of the instrument from becoming notice as otherwise provided by law, nor impair the admissibility of the record as evidence.***

➔Section 2. KRS 186A.190 is amended to read as follows:

- (1) Except as provided in subsection (4) of this section and in KRS 355.9-311(4), the perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. Notation shall be made by the entry of information required by subsection (7) of this section into the Automated Vehicle Information System, and shall be deemed to have occurred upon the entry. The notation of the security interest on the certificate of title shall be in accordance with this chapter and shall remain effective from the date on which the security interest is noted on the certificate of title for a period of ten (10) years, or, in the case of a manufactured home, for a period of thirty (30) years, or until discharged under this chapter and KRS Chapter 186. The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for five (5) additional years, commencing on the day the notation would have expired in the absence of the filing. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial notation.
- (2) Except as provided in subsection (4) of this section, the notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the following provisions govern the determination of the county of the debtor's residence:
 - (a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;
 - (b) A limited partnership organized under KRS Chapter 362 or as defined in KRS 362.2-102(14) shall be deemed a resident of the county in which its principal place of business is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362 or 362.2-202. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;
 - (c) A limited partnership not organized under the laws of this state and authorized to do business in this state shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
 - (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited liability company organized under KRS Chapter 275 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;
 - (e) A corporation not organized under the laws of this state, but authorized to transact or do business in this state under KRS Chapter 271B, 273, or 274, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275, shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent filing with the Secretary of State which officially designates its current registered office;
 - (f) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
 - (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;
 - (h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;
 - (i) A credit union organized under Subtitle 6 of KRS Chapter 286 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and
 - (j) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited liability company, limited liability partnership, limited partnership, or corporation not organized under the laws of this state and

not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

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

- (3) Except as provided in subsection (4) of this section, before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the property being transferred. Once a security interest has been noted on the owner's title, a subsequent title shall not be issued by any county clerk free of the notation unless the owner's title is presented to the clerk and it has been noted thereon that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk. If information relating to the discharge of a security interest is presented to a clerk under the provisions of KRS 186.045(3), the clerk shall discharge the security interest and remove the lien information from AVIS.
- (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall, following inspection of the vehicle by the sheriff, to determine that the vehicle has not been stolen, issue a new ownership document to a vehicle, clear of all prior liens, to a person after he or she provides to the county clerk an affidavit devised by the Transportation Cabinet and completed by the person. The ownership document presented as a result of this affidavit shall be in accordance with subsection (5) of this section. In the affidavit, the affiant shall attest that:
 - (a) The affiant or the agent of the affiant possesses the vehicle;
 - (b) Before he or she provided the notices required by paragraphs (c) and (d) of this subsection:
 1. A debt on the vehicle has been owed him or her for more than thirty (30) days;
 2. Within thirty (30) days of payment of damages by an insurance company and receipt by the current owner of the motor vehicle or lienholder of damages pursuant to a claim settlement which required transfer of the vehicle to the insurance company, the insurance company has been unable to obtain:
 - a. A properly endorsed certificate of title on the vehicle from the current owner; and
 - b. If applicable, any lien satisfactions; or
 3.
 - a. The vehicle was voluntarily towed or transported pursuant to a request of the current owner or an insurance company that a motor vehicle dealer, licensed as a used motor vehicle dealer and motor vehicle auction dealer, take possession of and store the motor vehicle in the regular course of business; and
 - b. Within forty-five (45) days of taking possession of the motor vehicle, the motor vehicle dealer has not been paid storage fees by the current owner or lienholder and has not been provided both a properly endorsed certificate of title and if applicable, any lien satisfactions;
 - (c) More than thirty (30) days before presenting the affidavit to the county clerk, the affiant attempted to notify the owner of the vehicle and all known lienholders, including those noted on the title, by certified mail, return receipt requested, or by a nationally recognized courier service, of his or her name, address, and telephone number as well as his or her intention to obtain a new title or salvage title, as applicable, clear of all prior liens, unless the owner or a lienholder objects in writing;
 - (d) More than fourteen (14) days before presenting the affidavit to the county clerk, the affiant had published a legal notice stating his or her intention to obtain title to the vehicle. The legal notice appeared at least twice in a seven (7) day period in a newspaper ~~published, and~~ with ~~a statewide~~ circulation ~~in the county Kentucky~~. The legal notice stated:
 1. The affiant's name, address, and telephone number;

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

Signed by Governor April 10, 2018.

CHAPTER 118

(SB 144)

AN ACT relating to audits of county officers.

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

➔Section 1. KRS 43.070 is amended to read as follows:

- (1) (a) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the Auditor shall audit annually:
1. The funds contained in each county's budget; and
 2. The books, accounts, and papers of all county clerks and sheriffs.
- (b) The Auditor shall not conduct an audit pursuant to this subsection if the fiscal court or the elected official notifies the Auditor that a certified public accountant has been employed to audit the books, accounts, and papers of the county or the fee office, in accordance with KRS 64.810.
- (c) **1. *If any county clerk or sheriff meets the criteria established in this subsection and any additional criteria established in administrative regulations promulgated by the Auditor, that county clerk's or sheriff's audit required by this section may, in the discretion of the Auditor, be conducted by an agreed-upon procedures engagement performed by the Auditor. If, in the discretion of the Auditor, an agreed-upon procedures engagement in progress will not provide sufficient oversight of the county clerk's or sheriff's office, the Auditor may at any time***

convert the engagement to an audit performed under paragraph (a)2. of this subsection. A county clerk or sheriff shall not be eligible for the agreed-upon procedures engagement as allowed in this paragraph for the first audit period after election if the county clerk or sheriff is serving in office for the first time, or is assuming the office after experiencing a break in sequential service in that position.

2. *The Auditor and the county clerk or sheriff shall establish specific procedures for any agreed-upon procedures engagement. If the Auditor and the county clerk or sheriff cannot agree to the specific procedures for an agreed-upon procedures engagement, the audit of the county clerk's or sheriff's office shall be conducted under paragraph (a)2. of this subsection for that year subject to the audit.*
 3. *At a minimum, the county clerk or sheriff shall meet the following criteria in order to be eligible to have the county clerk's or sheriff's annual audit in any particular year conducted using agreed-upon procedures:*
 - a. *The county clerk or sheriff applies to the Auditor to have an agreed-upon procedures engagement for the year subject to the audit on a form provided by the Auditor and by the application deadline established by the Auditor;*
 - b. *The county clerk's or sheriff's office did not have any reported audit comment or finding in its most recent audit report;*
 - c. *The county clerk or sheriff and the Auditor agree to specific procedures for the agreed-upon procedures engagement; and*
 - d. *Any additional criteria that may be determined by the Auditor.*
 4. *The publication requirements related to an agreed-upon procedures engagement shall be the same as those required for audits of the county clerks and sheriffs performed under paragraph (a)2. of this subsection, except that the Auditor may provide a summary of the agreed-upon procedures engagement report, and publication of the summary shall satisfy the statutory requirements to publish the audit report, opinion letter, and transmittal letter.*
 5. *The billing and expense provisions of subsection (3) of this section shall apply to any agreed-upon procedures engagement performed under this section.*
 6. *The Auditor may promulgate administrative regulations that set forth additional criteria to qualify for agreed-upon procedures engagements, the application procedures, and the standards, procedures, guidelines, and reporting requirements for agreed-upon procedures engagements under this section.*
 7. *In exercising discretion regarding whether a county clerk or sheriff who otherwise meets the minimum requirements may have an agreed-upon procedures engagement in lieu of an audit for any particular year subject to an engagement, and in exercising its discretion regarding the proposed procedures for the agreed-upon procedures engagement for any particular year subject to an audit, the Auditor may consider factors including but not limited to past audit comments or agreed-upon procedures engagement findings, assessment of risks, complaints, financial statements, the number of consecutive agreed-upon procedures engagements performed of the county clerk or sheriff, and other factors relevant to oversight of the county clerk's or sheriff's office.*
- (2) The Auditor may audit:
- (a) The books, accounts and papers of all county judges/executive, county attorneys, coroners and constables; and
 - (b) The books, accounts, papers, and performance of all special purpose governmental entities as defined in KRS 65A.010. The expense of any audit or examination performed pursuant to this paragraph shall be borne by the entity audited or examined.
- (3) The county shall bear one-half (1/2) of the actual expense of the audit conducted pursuant to subsection (1)(a)1. of this section and shall bear the total actual expense of the audit conducted pursuant to subsections (1)(a)2. and (2)(a) of this section. No county shall be required to bear the expense for more than one (1) audit of the same fund or office annually pursuant to subsection (1)(a)1. or 2. of this section except as provided in KRS 64.810(4).

- (4) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the Auditor of Public Accounts shall bill the county for the expenses incurred pursuant to subsection (3) of this section. A copy of this bill shall be forwarded to the secretary of the Finance and Administration Cabinet. Should the fiscal court within sixty (60) days following receipt of said bill determine the charge to be excessive or otherwise improper it shall submit its objection to the secretary of the Finance and Administration Cabinet and to the State Treasurer for resolution of the controversy in accordance with subsection (5) of this section. If the amount billed has not been paid within sixty (60) days from date of billing, and no objection has been filed, the Auditor shall notify the secretary of the Finance and Administration Cabinet and the secretary of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 by the state to the county or counties. Deductions shall continue until the total amount due the Auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the Auditor of Public Accounts. When an objection to the bill has been filed with the secretary of the Finance and Administration Cabinet and the State Treasurer in accordance with subsection (5) of this section the amount found to be equitable and just shall become payable immediately upon the entry of the final decision.
- (5) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted by the fiscal court to the secretary of the Finance and Administration Cabinet and the State Treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the Attorney General, whose decision shall be final.

Signed by Governor April 10, 2018.

CHAPTER 119

(SCR 176)

A CONCURRENT RESOLUTION urging the Kentucky Cabinet for Health and Family Services, Department for Medicaid Services, to continue to improve the provision of colorectal cancer screening services to Kentucky Medicaid recipients.

WHEREAS, according to the United States Centers for Disease Control and Prevention (CDC) Web site, of cancers that affect both men and women, colorectal cancer is the second leading cause of cancer-related deaths in the United States, and it is the leading cause of cancer deaths among nonsmokers; and

WHEREAS, the American Cancer Society estimates that there will be 140,250 new cases of colorectal cancer and 50,630 deaths from colorectal cancer in the United States in 2018; and

WHEREAS, according to the most recent data from the CDC Web site, Kentucky has the highest rate of colorectal cancer incidence in the United States and the fifth highest rate of colorectal cancer deaths in the United States; and

WHEREAS, the United States Preventive Services Task Force (USPSTF) is a well-respected and nationally recognized independent, volunteer panel of experts appointed by the United States Agency for Healthcare Research and Quality to make evidence-based recommendations about clinical preventive services, such as screenings, counseling services, and preventive medications; and

WHEREAS, the USPSTF recommends periodic colorectal cancer screening for adults to reduce mortality from colorectal cancer, beginning at age 50 and continuing to age 75; and

WHEREAS, the USPSTF states that using any of the following three screening regimens will be effective at reducing mortality from colorectal cancer: (1) annual high-sensitivity fecal occult blood testing; (2) sigmoidoscopy every five years combined with high-sensitivity fecal occult blood testing every three years; and (3) screening colonoscopy every ten years; and

WHEREAS, colorectal cancer screening has contributed to a decrease in colorectal cancer death rates by 34 percent among individuals in the United States age 50 and over during 2000 through 2014; and

WHEREAS, according to 2016 Behavioral Risk Factor Surveillance System Survey data from the CDC, 70.1 percent of Kentucky's citizens over the age of 50 were screened for colorectal cancer within the recommended timeframes; and

WHEREAS, an initiative led by the American Cancer Society, the CDC, and the National Colorectal Cancer Roundtable strives to achieve an 80 percent screening rate for adults over the age of 50 by 2018; and

WHEREAS, for the years spanning from 2005 to 2013, the United States Medicaid and CHIP Payment and Access Commission found data showing that adults with Medicaid coverage reported lower rates of colorectal cancer screening than adults covered by private insurance, regardless of income level; and

WHEREAS, according to the Kentucky Colon Cancer Screening Program Advisory Committee's 2013-14 Annual Report, people covered by Kentucky Medicaid with a primary diagnosis of colorectal cancer and with any diagnosis and colorectal cancer accounted for 516 total hospital admissions in 2013, with total charges of \$30,879,111. There were 2,905 colonoscopies reported as covered by Kentucky Medicaid in 2013, with total charges of \$16,077,003; and

WHEREAS, according to the 2017 External Quality Review Technical Report published by the Kentucky Cabinet for Health and Family Services, Department for Medicaid Services, the provision of colorectal cancer screening services to Medicaid recipients is one of six health care areas targeted for improvement by the Department;

NOW, THEREFORE,

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

➔Section 1. The General Assembly thanks the Kentucky Cabinet for Health and Family Services, Department for Medicaid Services (DMS), for its work in seeking to improve the provision of colorectal cancer screening services to Medicaid recipients.

➔Section 2. The General Assembly respectfully urges DMS to continue to work towards improving the provision of colorectal cancer screening services to Medicaid recipients, which should include achieving an 80 percent colorectal cancer screening rate for Kentucky Medicaid recipients over the age of 50 and holding Medicaid managed care organizations accountable for achieving this goal.

➔Section 3. The General Assembly respectfully urges DMS to ensure that all colorectal cancer screening services criteria for Medicaid managed care programs align, at a minimum, with USPSTF guidelines for reducing mortality from colorectal cancer.

➔Section 4. The Clerk of the Senate shall transmit a copy of this Resolution to the Secretary of the Kentucky Cabinet for Health and Family Services, 275 E. Main Street, 5W-A, Frankfort, Kentucky 40621.

Signed by Governor April 10, 2018.

CHAPTER 120

(SB 201)

AN ACT relating to services for children and transition-age youth.

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

➔Section 1. KRS 200.501 is amended to read as follows:

The Kentucky General Assembly finds that services to children *and transition-age youth* are provided by various departments and agencies at both the state and local level, often without appropriate policy collaboration and service coordination. The General Assembly declares that the purpose of KRS 200.501 to 200.509 is to establish a structure for coordinated policy development, comprehensive planning, and collaborative budgeting for services *and supports* to children *and transition-age youth* with *or at risk of developing behavioral health needs* ~~[an emotional disability or severe emotional disability]~~ and their families. It is further the intention of the General Assembly to build on the existing resources and to design and implement a *system of care for children and transition-age youth with or at risk of developing behavioral health needs* ~~[coordinated service system for children with an emotional disability or severe emotional disability]~~ that is community based, *family- and youth-driven, and culturally and linguistically competent* ~~[and centered on the needs of the individual child and family]~~. Children *and transition-age youth who meet criteria for a serious* ~~[with a severe]~~ emotional disability, *including a co-occurring substance use disorder, and who are placed outside their homes to address unmet behavioral health needs* ~~[receiving institutional care or are~~

~~at risk of institutional placement]~~ shall be given priority for services **and supports** pursuant to KRS 200.501 to 200.509.

➔Section 2. KRS 200.503 is amended to read as follows:

As used in KRS 200.501 to 200.509, unless the context otherwise requires:

- (1) "Child with a behavioral health need" means a child **or transition-age youth** with, or at risk of developing, an emotional disability, substance ~~use~~~~abuse~~ disorder, or mental, emotional, or behavioral needs;
- (2) "Child with an emotional disability" means a child **or transition-age youth** with a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and seriously limits a child's capacity to function in the home, school, or community;
- (3) "Child with a ~~serious~~~~severe~~ emotional disability" means a child **or transition-age youth** with a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and that:
 - (a) Presents substantial limitations that have persisted for at least one (1) year or are judged by a mental health professional to be at high risk of continuing for one (1) year without professional intervention in at least two (2) of the following five (5) areas: "Self-care," defined as the ability to provide, sustain, and protect his or herself at a level appropriate to his or her age; "Interpersonal relationships," defined as the ability to build and maintain satisfactory relationships with peers and adults; "Family life," defined as the capacity to live in a family or family type environment; "Self-direction," defined as the child's ability to control his or her behavior and to make decisions in a manner appropriate to his or her age; and "Education," defined as the ability to learn social and intellectual skills from teachers in available educational settings;~~or~~
 - (b) Is a Kentucky resident and is receiving residential treatment for emotional disability through the interstate compact;~~or~~
 - (c) The Department for Community Based Services has removed the child from the child's home and has been unable to maintain the child in a stable setting due to behavioral **health needs**~~for emotional disturbance~~; or
 - (d) Is a person under twenty-one (21) years of age meeting the criteria of paragraph (a) of this subsection and who was receiving services prior to age eighteen (18) that must be continued for therapeutic benefit;
- (4) ~~["State Family Advisory Council" means the council composed of all parent members or alternate parent members of the state, regional, and local interagency councils for services to children with a behavioral health need pursuant to KRS 200.505 and 200.509 and all parent members of regional policy councils; and~~
- ~~(5)]~~"Least restrictive alternative mode of treatment" means treatment given in the least confining setting which will provide a child **or transition-age youth** with an emotional disability or ~~serious~~~~severe~~ emotional disability appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement;
- (5) **"System of care" means a spectrum of effective, community-based services and supports for children and transition-age youth with or at risk of developing behavioral health needs and their families, that is organized into a coordinated network, builds meaningful partnerships with families and youth, and addresses their cultural and linguistic needs, in order to help them to function better at home, in school, in the community, and throughout life; and**
- (6) **"Transition-age youth" means individuals between the ages of sixteen (16) and twenty-five (25).**

➔Section 3. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services **and Supports** to Children **and Transition-Age Youth**. The chairperson of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

- (1) This council shall be composed of the following:

- (a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, the commissioner of the Department for Community Based Services, the commissioner of the Department for Public Health, the commissioner of the Department for Medicaid Services, the commissioner of the Department of Juvenile Justice, the director of the Division of Family Resource and Youth Services Centers, the executive director of the Commission for Children with Special Health Care Needs, ***the executive officer of the Department of Family*** and ~~the general manager of the Division of~~ Juvenile Services of the Administrative Office~~Offices~~ of the Courts, ***the chair of the Subcommittee for Equity and Justice for all Youth of the Juvenile Justice Advisory Board, the executive director of the Kentucky Housing Corporation, the executive director of the Kentucky Office of Vocational Rehabilitation, and the president of the Council on Postsecondary Education***, or their designees;
- (b) The ***chairperson of the council***~~Governor~~ shall appoint one (1) parent of a child ***or transition-age youth*** with a behavioral health need, who is a consumer of ~~state-funded~~ services ***and supports within the system of care***~~for children with a behavioral health need~~ to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State ***Interagency Council for Services and Supports to Children and Transition-Age Youth shall vote on nominations submitted by members. The nominee receiving the most votes shall be appointed***~~Family Advisory Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment~~. Appointees shall serve a term of ***two (2)***~~four (4)~~ years ***and may be reappointed to additional two (2) year terms***. If the child of the parent member or alternate parent member ceases to be a consumer of ~~state-funded~~ services ***and supports within the system of care***~~for children with a behavioral health need~~ during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees ***who are required to attend as part of their duties***, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members ***if it is outside the scope of their job duties***;
- (c) The chairperson of the council shall appoint one (1) youth between the ages of ***sixteen (16)***~~fourteen (14)~~ and twenty-five (25), who has a ***behavioral***~~mental~~ health disorder ~~or co-occurring disorder~~ and ***who is receiving or has received services to address mental health, substance use, or co-occurring mental health and substance use disorder***~~been a consumer of state-funded services for children with a behavioral health need~~, to serve as a member of the council, and one (1) youth who meets the same criteria to serve as the youth member's alternate in the absence of the youth member. For each appointment to be made, the ***State Interagency Council for Services and Supports to Children and Transition-Age Youth shall vote on nominations submitted by members. The nominee receiving the most votes shall be appointed***~~Statewide Youth Council of the Kentucky Partnership for Families and Children shall submit to the chairperson a list of four (4) names of youth who are qualified for appointment, from which list the chairperson shall make the appointment~~. Appointees shall serve a term of two (2) years ***and may be reappointed to additional two (2) year terms***, and the youth member and the youth member's alternate shall be eligible to serve out the remainder of their term of appointment regardless of age. The alternate youth member may attend and participate in all council meetings but shall vote only in the absence of the youth member. The youth member and alternate youth member shall receive no compensation in addition to that which they may already receive as service providers or state employees ***who are required to attend as part of their duties***, but the youth member and alternate youth member shall be reimbursed for expenses incurred through the performance of their duties as council members ***if it is outside the scope of their job duties***~~; and~~
- (d) ***The chairperson of the council shall appoint one (1) member of a nonprofit family organization representing consumers of services and supports within the system of care whose membership, leadership, and governance include parents, primary caregivers, or children or transition-age youth with serious emotional, behavioral, or mental health needs, to serve as a member of the council. For each appointment to be made, the chair shall publicly post on the State Interagency Council for Services and Supports to Children and Transition-Age Youth Web site a solicitation for letters of interest from qualified organizations and submit all qualified responses to a vote of the full membership. The organization which receives the most votes shall designate a representative to serve***

a term of two (2) years, and may be reappointed to additional two (2) year terms. The family organization member shall receive no compensation in addition to that which the member may already receive as an employee who is required to attend as part of his or her duties, but shall be reimbursed for expenses incurred through the performance of duties as a council member if it is outside the scope of his or her job duties; and

- (e) At the end of a term, a member shall continue to serve until a successor is appointed.
- (2) The State Interagency Council for Services *and Supports* to Children *and Transition-Age Youth* shall:
 - (a) ~~{Consider issues and }~~Make recommendations annually to the Governor and the Legislative Research Commission regarding the *system of care*~~{provision of services}~~ for children *and transition-age youth* with *or at risk of behavioral health needs*~~{an emotional disability}~~;
 - (b) Direct each regional interagency council to:
 - 1. *Operate as the regional locus of accountability for the system of care*~~{Coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination}~~; and
 - 2. Participate in family accountability, intervention, and response teams established pursuant to KRS 605.035;
 - (c)~~{ Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with a behavioral health need. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child;~~
 - (d)~~{ Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with a behavioral health need referred by regional councils;~~
 - (e)~~{ Assess the effectiveness of regional councils in serving as the locus of accountability for the system of care for children and transition-age youth with or at risk of behavioral health needs}{meeting the service needs of children with a behavioral health need;~~
 - (f)~~{ Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B};~~
 - (d)~~{(g)}~~ Meet at least monthly and maintain records of meetings~~{, except that records that identify individual children shall only be disclosed as provided by law}; and~~
 - (e)~~{(h)}~~ Adopt interagency agreements as necessary for coordinating services to children with a behavioral health need by the agencies represented in the state council;
 - (i)~~{ Develop a comprehensive array of services and supports to meet the needs of children and transition-age youth with or at risk of developing}{with a} behavioral health needs}{need}; and~~
 - (j)~~{ Promote services to prevent the behavioral health need of a child}.~~
- (3) *Agencies represented on the state council shall adopt interagency agreements as necessary to advance the system of care.*
- (4) The State Interagency Council for Services *and Supports* to Children *and Transition-Age Youth* may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.

➔Section 4. KRS 200.507 is amended to read as follows:

~~{The secretary for health and family services, the designee of the State Department of Education, and the executive director of the Administrative Offices of the Courts shall ensure that the State Interagency Council for Services to Children with an Emotional Disability is formed by August 1, 1990. }~~No member of the State Interagency Council shall receive compensation other than that received as a state employee, *except that the parent and youth members, alternate parent and youth members, and family organization members shall be reimbursed for all expenses incurred through the performance of their duties as council members.*

➔Section 5. KRS 200.508 is amended to read as follows:

A child **or transition-age youth** with a **serious**~~an~~ emotional disability and the parent, person exercising custodial control or supervision, or guardian of that **individual**~~child~~ shall have the **same rights as anyone receiving behavioral health services through a provider, and**~~right to~~:

- (1) Be adequately informed as to priorities, philosophy, and policies of the regional interagency council;
- (2) Be informed in advance of scheduled regional or local interagency council~~and interagency service planning~~ meetings~~relevant to services to the child~~;
- (3) **Be informed of behavioral health services and supports available to children and transition-age youth within their community**~~Participate in the development of the interagency service plan and revisions thereto~~; **and**
- (4)~~Be adequately informed as to the interagency service plan and any revisions thereto and receive a written copy of the plan;~~
- (5)~~Refuse the interagency service plan;~~
- (6)~~Access and utilize established grievance procedures without discontinuation or delay of needed services while the grievance is pending;~~
- (7)~~Access all child specific pertinent records and information accumulated by the regional interagency council, provided that the release of the information is not prohibited by existing state and federal laws or regulations governing confidentiality;~~
- (8)~~Consult with existing advocacy groups for consultation and representation;~~ **and**
- (9)~~Receive an orderly transition to other available services if eligibility for regional interagency council services is ending~~.

➔Section 6. KRS 200.509 is amended to read as follows:

- (1) There are hereby created regional interagency councils for **the system of care**~~services to children with a behavioral health need~~. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils~~for services to children with a behavioral health need~~ shall be chaired by **one (1) member, chosen by a majority vote of the members**~~the service region administrator of the Department for Community Based Services or a program specialist with expertise in this service area as the district supervisor's designee~~. Each council shall be composed of the following members:
 - (a) The children's services **director**~~coordinator~~ from each regional community mental health center or their designee~~in the case of a multicouncil district~~;
 - (b) One (1) court-designated **specialist or court-designated** worker chosen by the **executive officer of the Department of Family and Juvenile Services of the Administrative Office of the Courts**~~Chief Regional District Judge within the region~~;
 - (c) One (1)~~specialist in~~ special education **cooperative representative with behavioral health experience** chosen by the **directors of cooperatives**~~school district superintendents~~ in the area served by the regional council;
 - (d) One (1) parent of a child with a behavioral health need, who is **or has been** a consumer of **system of care**~~state-funded~~ services **and supports**~~for children with a behavioral health need~~, and one (1) parent who meets the same criteria to serve as the parent member's alternate, who may attend and participate in all council meetings, but shall vote only in the absence of the parent member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the **chair of the State Interagency Council for Services and Supports to Children and Transition-Age Youth**~~Governor~~ a list of two (2) names of parents who are qualified for appointment from which list the **chair of the State Interagency Council for Services and Supports to Children and Transition-Age Youth**~~Governor~~ shall make the appointment. Appointees shall serve a term of **two (2)**~~four (4)~~ years, **and may be reappointed to additional two (2) year terms**. If the child of the parent member or alternate parent member ceases to be a consumer of **system of care**~~state-funded~~ services **and supports**~~for children with an emotional disability~~ during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment;

- (e) *One (1) transition-age youth who has a behavioral health disorder and who is receiving or has received a service to address mental health, substance use, or co-occurring mental health and substance use disorder, and one (1) transition-age youth who meets the same criteria to serve as the youth member's alternate in the absence of the youth member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the chair of the State Interagency Council for Services and Supports to Children and Transition-Age Youth a list of two (2) names of transition-age youth who are qualified for appointment from which list the chair of the State Interagency Council for Services and Supports to Children and Transition-Age Youth shall make the appointment. Appointees shall serve a term of two (2) years, and may be reappointed to additional two (2) year terms. If the youth member or alternate youth member ceases to be a consumer of system of care services and supports during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment;*
 - (f) Any other local public or private agency that provides services *and supports* to children *and transition-age youth* with ~~[-a]~~ behavioral health ~~needs[need]~~ which the regional interagency council may invite to have a representative become a permanent or temporary member of the council; and
 - (g) ~~[(f)]~~ *One (1) representative[Representatives] from each of the Department of Juvenile Justice, family resource and youth services centers, the Kentucky Office of Vocational Rehabilitation, the Department for Community Based Services, and local health departments.*
- (2) No member of a regional interagency council for services to children with a behavioral health need shall be given compensation in addition to that which they already receive as service providers or state employees, except that the parent *and youth* members and alternate parent *and youth* members of regional interagency councils shall be reimbursed *by the regional interagency council's contracted fiscal agent* for all expenses incurred through the performance of their duties as council members *if it is outside the scope of their job duties.*
- (3) Each regional interagency council for services to children with a behavioral health need shall perform the following functions:
- (a) *Conduct regional system of care planning and operations*~~[Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision];~~
 - (b) Coordinate *system-level continuous quality improvement*~~[the development of interagency service plans for children with a behavioral health need in the least restrictive alternative mode of treatment];~~
 - (c) Identify *and develop system of care expansion opportunities*~~[the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with a behavioral health need];~~
 - (d) *Promote awareness of the system of care*~~[Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner];~~
 - (e) Initiate and adopt interagency agreements as necessary for providing services *and supports* to children *and transition-age youth* with *or at risk of* ~~[-a]~~ behavioral health ~~needs[need]~~ by the agencies represented in the regional council;
 - (f) Advise the state interagency council regarding *the system of care*~~[service delivery to children with a behavioral health need] within the region; and~~
 - (g) ~~[- Refer those children for whom the regional councils cannot provide adequate services to the state interagency council;~~
 - (h) ~~[- Implement the uniform grievance procedure established by the state interagency council;~~
 - (i) ~~[- Make periodic reports to the state interagency council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child;~~
 - (j) ~~[- Recognize local interagency councils for services to children with a behavioral health need when it determines the council would be beneficial to service delivery;~~
 - ~~[(k)]~~ Participate in family accountability, intervention, and response teams established pursuant to KRS 605.035~~[- and~~
 - ~~[(l)]~~ ~~[- Promote services to meet the behavioral health need of a child].~~

- (4) The secretary for health and family services and the designee of the State Department of Education shall ensure that regional councils for services to children with a behavioral health need are formed.
- (5) Local interagency councils for ~~the system of care~~~~[services to children with a behavioral health need]~~ may be formed **at the discretion of a regional interagency council to advance the functions of the regional interagency council at the city, county, or other local community level**~~[as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for children with a behavioral health need within a city, county, or other local community].~~

➔Section 7. KRS 605.035 is amended to read as follows:

- (1) There is hereby created in each judicial district a family accountability, intervention, and response team that shall develop enhanced case management plans and opportunities for services for children referred to the team. The family accountability, intervention, and response team shall consist of not more than fifteen (15) persons.
- (2) The membership of the team shall include the following representatives as appointed by their agencies or organizations:
 - (a) A court-designated worker in that judicial circuit or district;
 - (b) **One (1) or more**~~[The]~~ members, **one (1) of whom shall be a representative of the community mental health center**, of the regional interagency council specified in KRS 200.509(1)(a) to (d) and ~~(g)~~~~[(f)]~~, or corresponding members of the local interagency council if one exists;
 - (c) A representative from the cabinet knowledgeable about services available through the cabinet and authorized to facilitate access to services;
 - (d) A representative from the office of a county attorney within the judicial district;
 - (e) A representative from the Department of Public Advocacy;
 - (f) A representative from a local public school within the judicial district;
 - (g) A representative of law enforcement; and
 - (h) Other persons interested in juvenile justice issues, as identified by the family accountability, intervention, and response team, who are necessary for a complete representation of resources within each judicial circuit or district.
- (3) A court-designated worker from within the judicial circuit or district shall lead the team and be responsible for convening and staffing the team.
- (4) The team shall adopt a case management approach and process for reviewing:
 - (a) Referrals from the court-designated worker involving cases in which a child has failed to appear for a preliminary intake inquiry, declined to enter into a diversion agreement, or failed to complete the terms of the agreement; and
 - (b) Status offense cases if the court-designated worker, after reviewing the complaint, has determined that no further action is necessary.
- (5) After reviewing the actions taken by the court-designated worker, including referrals made for the child and his or her family, efforts to address barriers to successful completion, and whether other appropriate services are available to address the needs of the child and his or her family, the team may:
 - (a) Refer the case back to the court-designated worker to take further action as recommended by the team; or
 - (b) Advise the court-designated worker to refer the case to the county attorney if the team has no further recommendations to offer.

➔Section 8. KRS 194A.120 is amended to read as follows:

The Commission for Children with Special Health Care Needs and the State Interagency Council for Services **and Support** to Children **and Transition-age Youth** shall be the only statutory bodies attached to the cabinet that shall have the authority to issue administrative regulations. No other corporate body or instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, presently attached to the cabinet, shall issue administrative regulations but shall operate only in an advisory capacity.

Signed by Governor April 10, 2018.

CHAPTER 121**(SB 181)**

AN ACT relating to sex offender registrants.

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

➔Section 1. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.580:

- (1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;
- (2) "Cabinet" means the Justice and Public Safety Cabinet;
- (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 3. Sex crime;
 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 5. Human trafficking involving commercial sexual activity, as set forth in KRS 529.100;
 6. Promoting human trafficking involving commercial sexual activity, as set forth in KRS 529.110;
 7. Promoting prostitution, as set forth in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 8. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 9. Sexual abuse, as set forth in KRS 510.120 and 510.130;
 10. Unlawful transaction with a minor in the first degree, as set forth in KRS 530.064(1)(a);
 11. Any offense involving a minor or depictions of a minor, as set forth in KRS Chapter 531;
 12. Any attempt to commit any of the offenses described in subparagraphs 1. to 11. of this paragraph;~~{and}~~
 13. Solicitation to commit any of the offenses described in subparagraphs 1. to 11. of this paragraph;
or
 - 14. Any offense from another state or territory, any federal offense, or any offense subject to a court martial of the United States Armed Forces, which is similar to any of the offenses described in subparagraphs 1. to 13. of this paragraph.**
- (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) "Registrant" means:

- (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
 - 1. A sex crime; or
 - 2. A criminal offense against a victim who is a minor; or
- (b) Any person required to register under KRS 17.510; or
- (c) Any sexually violent predator; or
- (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;
- (6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, ***palm prints***, DNA sample, a photograph, aliases used, residence, ***motor vehicle operator's license number as well as any other government-issued identification card numbers, if any*** ~~[electronic mail address and any instant messaging, chat, or other Internet communication name identities]~~, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;
- (7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;
- (8) "Sex crime" means:
 - (a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, 531.320, or 531.335;
 - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or
 - (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;
- (10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
- (11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;
- (12) "Victim" has the same meaning as in KRS 421.500;
- (13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen from a person, as prescribed by administrative regulation, that is required to provide a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the Department of Kentucky State Police forensic laboratory for law enforcement identification purposes and inclusion in law enforcement identification databases; and
- (14) "Authorized personnel" means an agent of state government who is properly trained in DNA sample collection pursuant to administrative regulation.

➔Section 2. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated, by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form

and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.

- (4) The court or the official shall order the person to register with the appropriate local probation and parole office which shall obtain the person's fingerprints, ***palm prints***, DNA sample, ~~and~~ photograph, ***and a copy of his or her motor vehicle operator's license as well as any other government-issued identification cards, if any.*** Thereafter, the registrant shall return to the appropriate local probation and parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained, and the registrant shall pay the cost of updating the photo for registration purposes. Any registrant who has not provided ***palm prints, a copy of his or her motor vehicle operator's license, or a copy of any other government-issued identification cards, if any, as of the effective date of this Act*** ~~a DNA sample as of July 1, 2009~~, shall provide ~~the information~~ ~~a DNA sample~~ to the appropriate local probation and parole office when the registrant appears for a new photograph to be obtained. ***Any change to a registrant's motor vehicle operator's license number or any other government-issued identification card after the registrant appears for a new photograph shall be registered in accordance with subsection (10) of this section.*** Failure to comply with this requirement shall be punished as set forth in subsection (11) of this section.
- (5) (a) The appropriate probation and parole office shall send the registration form containing the registrant information, ~~fingerprints~~ ~~fingerprints~~ ~~and~~ ***palm prints***, ~~and~~ photograph, ***and a copy of his or her motor vehicle operator's license as well as any other government-issued identification cards, if any,*** and any special conditions imposed by the court or the Parole Board, to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601. The appropriate probation and parole office shall send the DNA sample to the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the cabinet.
- (b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.
- (c) Any employee of the Justice and Public Safety Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (6) (a) Except as provided in paragraph (b) of this subsection, any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.
- (b) No person shall be required to register under this subsection for a juvenile adjudication if such an adjudication in this Commonwealth would not create a duty to register. This paragraph shall be retroactive.
- (7) (a) Except as provided in paragraph (b) of this subsection, if a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense ***in a court of the United States, in a court martial of the United States Armed Forces, or*** under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this

subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

- (b) No person shall be required to register under this subsection for a juvenile adjudication if such an adjudication in this Commonwealth would not create a duty to register. This paragraph shall be retroactive.
- (8) The registration form shall be a written statement signed by the person which shall include registrant information, including an up-to-date photograph of the registrant for public dissemination.
- (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.
- (10) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.
 - (b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
 - 2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.
 - (c) If the:
 - 1. ***Motor vehicle operator's license number or any other government-issued identification card number***~~electronic mail address or any instant messaging, chat, or other Internet communication name identities~~ of any registrant changes;~~[-]~~ or
 - 2. ~~[-]~~***Registrant obtains for the first time a motor vehicle operator's license number or any other government-issued identification card number;***~~creates or uses any new Internet communication name identities;~~

the registrant shall register the change ***or addition no later than five (5) working days after***~~for new identity, on or before~~ the date of the change ***or the date of the addition***~~use or creation of the new identity~~, with the appropriate local probation and parole office in the county in which he or she resides.
 - (d) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
 - 2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection~~or learns of the registrant's new or changed electronic mail address or instant messaging, chat, or other Internet communication name identities under paragraph (c) of this subsection~~, that office shall forward this information as set forth under subsection (5) of this section.
 - (e) 1. ***A registrant shall register the following information with the appropriate local probation and parole office no less than twenty-one (21) days before traveling outside of the United States:***
 - a. ***His or her passport number and country of issue;***
 - b. ***The dates of departure, travel, and return; and***
 - c. ***The foreign countries, colonies, territories, or possessions that the registrant will visit.*** - 2. ***The registrant shall register the following information with the appropriate local probation and parole office no later than five (5) working days after the date of his or her return from traveling outside of the United States:***
 - a. ***The date he or she departed, traveled, and returned; and***
 - b. ***The foreign countries, colonies, territories, or possessions that the registrant visited.***
- (11) Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

- (12) Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (13) (a) The cabinet shall verify the addresses, ***names, motor vehicle operator's license numbers, and government-issued identification card numbers*** ~~and the electronic mail address and any instant messaging, chat, or other Internet communication name identities~~ of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3).
- (b) If the cabinet determines that a person has:
1. Moved ~~or has created or changed any electronic mail address or any instant messaging, chat, or other Internet communication name identities used by the person~~ without providing his or her new address~~, electronic mail address, or instant messaging, chat, or other Internet communication name identity~~; or
 2. ***A new name, motor vehicle operator's license number, or government-issued identification card number that he or she has not provided;***

to the appropriate local probation and parole office or offices as required under subsection (10)(a), (b), and (c) of this section, the cabinet shall notify the appropriate local probation and parole office of the new address, ***name, motor vehicle operator's license number, or government-issued identification card number*** ~~or electronic mail address or any instant messaging, chat, or other Internet communication name identities~~ used by the person. The office shall then forward this information as set forth under subsection (5) of this section. The cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.

- (c)~~(b)~~ An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection:
1. Shall consider revocation of the parole, probation, postincarceration supervision, or conditional discharge of any person released under its authority; and
 2. Shall notify the appropriate county or Commonwealth's Attorney for prosecution.

➔Section 3. KRS 17.520 is amended to read as follows:

- (1) A registrant, upon his or her release by the court, the Parole Board, the cabinet, or any detention facility, shall be required to register for a period of time required under this section.
- (2) (a) Lifetime registration is required for:
1. Any person who has been convicted of kidnapping, as set forth in KRS 509.040, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
 2. Any person who has been convicted of unlawful ***imprisonment***~~confinement~~, as set forth in KRS 509.020, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
 3. Any person convicted of a sex crime:
 - a. Who has one (1) or more prior convictions of a felony criminal offense against a victim who is a minor; or
 - b. Who has one (1) or more prior sex crime convictions;
 4. Any person who has been convicted of two (2) or more felony criminal offenses against a victim who is a minor;
 5. Any person who has been convicted of:
 - a. Rape in the first degree under KRS 510.040; or
 - b. Sodomy in the first degree under KRS 510.070; and

6. Any sexually violent predator.
- (3) All other registrants are required to register for twenty (20) years following discharge from confinement or twenty (20) years following the maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.
- (4) If a person required to register under this section is reincarcerated for another offense or as the result of having violated the terms of probation, parole, postincarceration supervision, or conditional discharge, the registration requirements and the remaining period of time for which the registrant shall register are tolled during the reincarceration.
- (5) A person who has pled guilty, entered an Alford plea, or been convicted in a court of another state or territory, in a court of the United States, or in a court-martial of the United States Armed Forces who is required to register in Kentucky shall be subject to registration in Kentucky based on the conviction in the foreign jurisdiction. The Justice and Public Safety Cabinet shall promulgate administrative regulations to carry out the provisions of this subsection.
- (6) The court shall designate the registration period as mandated by this section in its judgment and shall cause a copy of its judgment to be mailed to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.

➔Section 4. KRS 17.580 is amended to read as follows:

- (1) The Department of Kentucky State Police shall establish a Web site available to the public. The Web site shall display:
 - (a) The registrant information, except for ~~electronic mail address or any instant messaging, chat, or other Internet communication name identities included in a registrant's registration data, as well as~~ information that identifies a victim, DNA samples, fingerprints, *palm prints*, ~~and~~ Social Security numbers, *motor vehicle operator's license numbers, and government-issued identification card numbers* obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510;
 - (b) The sex offender information, except for information that identifies a victim, DNA samples, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510 prior to April 11, 2000; and
 - (c) The registrant's conviction, the elements of the offense for which the registrant was convicted, whether the registrant is currently on probation or parole, and whether the registrant is compliant or noncompliant.

The Web site shall be updated every day except for Saturdays, Sundays, and state holidays.

- (2) The information pertaining to an individual shall be maintained on the Web site so long as that individual is registered in accordance with KRS 17.500 to 17.580.
- (3) ~~{The Web site shall provide public access to electronic mail addresses and any instant messaging, chat, or other Internet communication name identities used by registrants solely by use of a search function on the Web site through which members of the public may enter an electronic mail address or any instant messaging, chat, or other Internet communication name identity and receive an answer as to whether the entered identifier is included in the registrant information for any registrant.~~
- ~~(4)~~ The following language shall be prominently displayed on the Web site: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEB SITE TO HARASS A PERSON IDENTIFIED ON THIS WEB SITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEB SITE."
- ~~(4)~~~~(5)~~
 - (a) Any Department of Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.
 - (b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Department of Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.

- (5)~~(6)~~ The cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the Web site created in this section and the location of public access to the Web site in the county where the person resides.
- (6)~~(7)~~ In addition to the Web site, a local law enforcement agency may provide personal notification regarding the registrants located in its jurisdiction. Any notification shall contain the warning specified in subsection (3)~~(4)~~ of this section.

Signed by Governor April 10, 2018.

CHAPTER 122

(SB 202)

AN ACT relating to the Council on Postsecondary Education.

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

➔Section 1. KRS 164.013 is amended to read as follows:

- (1) The Council on Postsecondary Education shall set the qualifications for the position of president of the council. Except for the first president appointed under subsection (2) of this section, the council ~~may~~~~shall~~ employ a search firm and conduct a nationwide search for candidates. ~~Any~~~~The~~ search firm employed by the council shall consider, interview, and propose three (3) or more candidates for the position of president. The council may seek additional names from the search firm or from other sources.
- (2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.
- (3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.
- (4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established in KRS 164.003(2).
- (5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.
- (6) ~~[The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university.]~~The council shall set the salary of the president, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.
- (7) The president shall be accorded a contract to serve for a term not to exceed five (5) years, which is renewable at the pleasure of the council.
- (8) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. All personnel positions of the Council on Higher Education, as of May 30, 1997, with the exception of the position of executive director, shall be transferred to the Council on Postsecondary Education. All personnel shall be transferred at the same salary and benefit levels. Notwithstanding the provisions of KRS 11A.040, any person employed by the Council on Higher Education prior to May 30, 1997, may accept immediate employment with any governmental entity or any postsecondary education organization or institution in the Commonwealth and may carry out the employment duties assigned by that entity, organization, or institution.

- (9) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the strategic implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.
- (10) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under KRS 164.020.
- (11) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

Signed by Governor April 10, 2018.

CHAPTER 123

(SB 210)

AN ACT relating to possession of a firearm by a felon.

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

➔Section 1. KRS 527.040 is amended to read as follows:

- (1) A person is guilty of possession of a firearm by a convicted felon when he possesses, manufactures, or transports a firearm when he has been convicted of a felony, as defined by the laws of the jurisdiction in which he was convicted, in any state or federal court and has not:
 - (a) Been granted a full pardon by the Governor or by the President of the United States; *or*
 - (b) Been granted relief by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1968, as amended.
- (2) (a) Possession of a firearm by a convicted felon is a Class D felony unless the firearm possessed is a handgun in which case it is a Class C felony.
 - (b) *If a felon is convicted of a criminal offense other than possession of a firearm by a convicted felon, and he or she possessed a firearm in commission of that offense, then the felon shall be penalized for violating this section one (1) class more severely if it is a second or subsequent violation of this section.*
- (3) The provisions of this section shall apply to any youthful offender convicted of a felony offense under the laws of this Commonwealth. The exceptions contained in KRS 527.100 prohibiting possession of a handgun by a minor shall not apply to this section.
- (4) The provisions of this section with respect to handguns, shall apply only to persons convicted after January 1, 1975, and with respect to other firearms, to persons convicted after July 15, 1994.

Signed by Governor April 10, 2018.

CHAPTER 124

(SB 211)

AN ACT relating to the Tourism, Arts and Heritage Cabinet.

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

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

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

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

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

II. Program cabinets headed by appointed officers:

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

2. Governor's School for Entrepreneurs Program.
- (b) Office of Legal and Legislative Services.
 1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.
- (e) Office of Technology Services.
- (f) Office of Educational Programs.
- (g) Office for Education and Workforce Statistics.
- (h) Board of the Kentucky Center for Education and Workforce Statistics.
- (i) Board of Directors for the Center for School Safety.
- (j) Department of Education.
 1. Kentucky Board of Education.
 2. Kentucky Technical Education Personnel Board.
- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Employment and Training.
 - a. Division of Grant Management and Support.
 - b. Division of Workforce and Employment Services.
 - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.
- (p) Statewide Council for Vocational Rehabilitation.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.

2. Office of General Counsel.
3. Office of Administrative Hearings.
4. Mine Safety Review Commission.
5. Kentucky State Nature Preserves Commission.
6. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.

- e. Financial Institutions Legal Division.
 - (b) Kentucky Claims Commission.
 - (c) Kentucky Boxing and Wrestling Commission.
 - (d) Kentucky Horse Racing Commission.
 - 1. Office of Executive Director.
 - a. Division of Pari-mutuel Wagering and Compliance.
 - b. Division of Stewards.
 - c. Division of Licensing.
 - d. Division of Enforcement.
 - e. Division of Incentives and Development.
 - f. Division of Veterinary Services.
- (e) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
- (f) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (g) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (h) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (i) Department of Insurance.
 - 1. Division of Insurance Product Regulation.
 - 2. Division of Administrative Services.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Division of Consumer Protection.
 - 7. Division of Kentucky Access.
- (j) Department of Professional Licensing.
 - 1. Real Estate Authority.
- (5) Labor Cabinet.
- (a) Office of the Secretary.

1. Division of Management Services.
2. Office of General Counsel.
 - a. Workplace Standards Legal Division.
 - b. Workers' Claims Legal Division.
- (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
- (c) Office of Inspector General for Shared Services.
- (d) Department of Workplace Standards.
 1. Division of Apprenticeship.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Wages and Hours.
- (e) Department of Workers' Claims.
 1. Division of Workers' Compensation Funds.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information Services.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
- (f) Workers' Compensation Funding Commission.
- (g) Occupational Safety and Health Standards Board.
- (h) Apprenticeship and Training Council.
- (i) State Labor Relations Board.
- (j) Employers' Mutual Insurance Authority.
- (k) Kentucky Occupational Safety and Health Review Commission.
- (l) Workers' Compensation Nominating Committee.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.

1. Office of Local Programs.
2. Office of Rural and Secondary Roads.
- (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Finance and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.

- (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
 - (t) Office of Legislative and Regulatory Affairs.
- (9) Finance and Administration Cabinet:
- (a) Office of the Secretary.
 - (b) Office of the Inspector General.
 - (c) Office of Legislative and Intergovernmental Affairs.
 - (d) Office of General Counsel.
 - (e) Office of the Controller.
 - (f) Office of Administrative Services.
 - (g) Office of Policy and Audit.
 - (h) Department for Facilities and Support Services.
 - (i) Department of Revenue.
 - (j) Commonwealth Office of Technology.
 - (k) State Property and Buildings Commission.
 - (l) Office of Equal Employment Opportunity and Contract Compliance.
 - (m) Kentucky Employees Retirement Systems.
 - (n) Commonwealth Credit Union.
 - (o) State Investment Commission.
 - (p) Kentucky Housing Corporation.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Tobacco Settlement Trust Corporation.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
 - (x) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.

- (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.
 - 7. Division of Recreation.
 - 8. Division of Golf Courses.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - 11. Division of Resort Parks.
 - 12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering, Infrastructure, and Technology.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Marketing.
- (d) Kentucky Horse Park.
 - 1. Division of Support Services.
 - 2. Division of Buildings and Grounds.
 - 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 - 1. Office of Administrative and Information Technology Services.
 - 2. Office of Human Resources and Access Control.
 - 3. Division of Expositions.
 - 4. Division of Kentucky Exposition Center Operations.
 - 5. Division of Kentucky International Convention Center.
 - 6. Division of Public Relations and Media.
 - 7. Division of Venue Services.
 - 8. Division of Personnel Management and Staff Development.
 - 9. Division of Sales.
 - 10. Division of Security and Traffic Control.
 - 11. Division of Information Technology.
 - 12. Division of the Louisville Arena.
 - 13. Division of Fiscal and Contract Management.

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

III. Other departments headed by appointed officers:

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

➔Section 2. KRS 148.522 is amended to read as follows:

- (1) The Tourism, Arts and Heritage Cabinet shall consist of the Office of the Secretary, the Office of Legal Affairs, the Office of Finance, the Office of Government Relations and Administration, the Office of Human Resources, the Office of Public Affairs and Constituent Services, the Office of Arts and Cultural Heritage, ~~the Office of Creative Services,~~ the Office of Capital Plaza Operations, the Office of Film and Tourism Development, the Kentucky Department of Tourism, the Kentucky Department of Parks, the Tourism Development Finance Authority, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.
- (2) The Tourism, Arts and Heritage Cabinet shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.
- (3) The Office of Legal Affairs shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet, and shall be directly responsible to the secretary.
- (4) The Kentucky Department of Tourism shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.
- (5) The Divisions of Tourism Services, Marketing and Administration, and Communications and Promotions are created within the Kentucky Department of Tourism. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.

➔Section 3. The General Assembly confirms Executive Order 2017-732, dated October 30, 2017, relating to the reorganization of the Tourism, Arts and Heritage Cabinet, to the extent it is not otherwise confirmed or superseded by this Act.

➔Section 4. KRS 148.0221 is amended to read as follows:

As used in KRS 148.0221 to 148.0225, unless the context requires otherwise:

- (1) "Authority" or "KMRRA" means the Kentucky Mountain Regional Recreation Authority established in KRS 148.0222;
- (2) "Board" means the board of directors of KMRRA;
- (3) "County" means a county, charter county, urban-county government, unified local government, or consolidated local government;
- (4) "Kentucky Mountain Recreational Area" or "KMRA" means lands on which there is a system of recreational trails, including streams, rivers, and other waterways, and appurtenant facilities, including trailhead centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities in Kentucky and designated by the KMRRA as a part of the KMRA;
- (5) "Land" means roads, water, watercourses, buildings, structures, and machinery or equipment thereon when attached to the realty;
- (6) "Landowner" means a tenant, lessee, occupant, or person in control of the premises;
- (7) "Participating county" means a county that has qualified under KRS 148.0222(5);

- (8) "Participating landowner" means a landowner who owns land in a participating county and has a contractual agreement with the KMRRA for trail development as part of the KMRA;
- (9) "Recreational purposes" means all-terrain vehicle riding, bicycling, canoeing, hiking, horseback riding, hunting, kayaking, motorcycle riding, rock climbing, fishing, swimming, archaeological activities, nature study, off-highway vehicle driving, pleasure driving, watersports, winter sports, visiting or viewing historical or scenic sites, and otherwise using land for purposes pertaining to recreation or trail activities; and
- (10) "Target county" means Bell, Breathitt, Clay, Floyd, Harlan, **Jackson**, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Magoffin, Martin, Morgan, Owsley, Perry, Pike, Powell, **Pulaski**, or Wolfe County.

➔Section 5. The following KRS section is repealed:

148.590 Kentucky Sports Authority -- Membership -- Chairperson -- Executive director -- Functions.

Signed by Governor April 10, 2018.

CHAPTER 125

(SB 250)

AN ACT relating to screening for hepatitis C.

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

➔Section 1. KRS 214.160 is amended to read as follows:

- (1) Every physician and every other person legally permitted to engage in attendance upon a pregnant woman in this state shall take or cause to be taken from the woman a specimen of blood for serological test for syphilis as soon as he is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. If the woman is in labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen at that time, the specimen shall be obtained within ten (10) days after delivery. The specimen of blood shall be submitted to the laboratory of the Cabinet for Health and Family Services or a laboratory approved by the cabinet for the purpose of having made a serological test for syphilis. The test shall be of a type approved by the Cabinet for Health and Family Services.
- (2) The Cabinet for Health and Family Services shall, as often as necessary, publish a list of the five (5) most frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this state may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within eight (8) hours after delivery to determine whether there is evidence that she has ingested alcohol, a controlled substance, or a substance identified on the list provided by the cabinet, or if the woman has obstetrical complications that are a medical indication of possible use of any such substance for a nonmedical purpose.
- (3) Any physician or person legally permitted to engage in attendance upon a pregnant woman may administer to each newborn infant born under that person's care a toxicology test to determine whether there is evidence of prenatal exposure to alcohol, a controlled substance, or a substance identified on the list provided by the Cabinet for Health and Family Services, if the attending person has reason to believe, based on a medical assessment of the mother or the infant, that the mother used any such substance for a nonmedical purpose during the pregnancy.
- (4) The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant, as defined under KRS 600.020(1), has occurred and whether investigation by the Cabinet for Health and Family Services is necessary.
- (5) No prenatal screening for alcohol or other substance abuse or positive toxicology finding shall be used as prosecutorial evidence.

- (6) No person shall conduct or cause to be conducted any toxicological test pursuant to this section on any pregnant woman without first informing the pregnant woman of the purpose of the test.
- (7) Every physician or other person legally permitted to engage in attendance upon a pregnant woman in the Commonwealth shall take or cause to be taken from the woman a specimen of blood which shall be submitted for the purpose of serologic testing for the presence of hepatitis B surface antigen to a laboratory certified by the United States Department for Health and Human Services pursuant to Section 333 of the Public Health Service Act (42 U.S.C. sec. 263a), as revised by the Clinical Laboratory Improvement Amendments (CLIA), Pub.L. 100-578.
- (8) *Every physician or other person legally permitted to engage in attendance upon a pregnant woman in the Commonwealth shall take or cause to be taken from the woman a specimen of blood which shall be submitted for the purpose of serologic testing for the presence of hepatitis C virus antibodies and RNA in the blood.*
 - (a) *The results of this testing shall be recorded by the physician or other person legally permitted to engage in attendance upon a pregnant woman in the Commonwealth, in:*
 - 1. *The permanent medical record of the woman; and*
 - 2. *The permanent medical record of the child or children she was pregnant with at the time of the testing after the child or children are born.*
 - (b) *If the woman receives a test result that shows she is positive for hepatitis C virus antibodies or RNA, the physician or other person legally permitted to engage in attendance upon a pregnant woman in the Commonwealth shall orally inform and clearly document the woman or the legal guardian of the child or children she was pregnant with at the time of the testing, that it is recommended that serologic testing for the presence of hepatitis C virus antibodies and confirmation RNA in the blood be conducted on the child or children she was pregnant with at the time of the testing at the twenty-four (24) month recommended well baby pediatric check-up.*

Signed by Governor April 10, 2018.

CHAPTER 126

(HCR 7)

A CONCURRENT RESOLUTION urging the United States Fish and Wildlife Service (USFWS) to issue more migratory bird depredation permits and Kentucky Farm Bureau-administered subpermits to allow Kentucky farmers to legally take black vultures that are depredating their livestock.

WHEREAS, the federal Migratory Bird Treaty Act of 1918, 16 U.S.C. secs. 703 to 712, prohibits pursuing, hunting, taking, capturing, killing, or selling black vultures without a migratory bird depredation permit or subpermit; and

WHEREAS, black vultures are the only vultures found in the Commonwealth that take live prey, and after range expansion and population increases over the past 50 years, they have become common in Kentucky; and

WHEREAS, there is increasing concern among Kentucky farmers about the prevalence of livestock depredation caused by black vultures, yet they are prohibited under federal law from taking them without a migratory bird depredation permit or subpermit; and

WHEREAS, a farmer experiencing black vulture depredation may apply directly to the USFWS for a migratory bird depredation permit or the farmer may apply for one or more subpermits that have been allotted by the USFWS to Kentucky Farm Bureau for distribution; and

WHEREAS, many farmers have not been able to adequately protect their livestock from black vulture depredation, because they have found the migratory bird depredation permit and subpermit application and distribution process to be long, onerous, and overly restrictive; and

WHEREAS, Kentucky farmers believe that they have the right to protect their livestock from black vultures, which have become nuisances to the agricultural community in the Commonwealth;

NOW, THEREFORE,

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

➔Section 1. The Kentucky General Assembly urges the USFWS to issue more permits and subpermits to allow for the taking of depredating black vultures and to shorten and streamline the application process to allow greater and more timely relief to farmers experiencing depredation.

➔Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution and notification of its adoption to each member of the Kentucky Congressional delegation, Greg Sheehan, acting director of the USFWS, and Mark Haney, president of Kentucky Farm Bureau.

Signed by Governor April 10, 2018.

CHAPTER 127

(HB 93)

AN ACT relating to the prevention of financial exploitation in financial accounts.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Authorized agencies" means the Cabinet for Health and Family Services and the Department of Financial Institutions;*

(b) *"Financial exploitation" means:*

1. *The wrongful or unauthorized taking, withholding, appropriation, or use of a specified adult's funds or securities; or*
2. *Any act or omission by a person, including through the use of a power of attorney, guardianship, or any other authority regarding a specified adult, to:*
 - a. *Obtain control, through deception, intimidation, or undue influence, over a specified adult's money, assets, or property; or*
 - b. *Convert a specified adult's money, assets, or property;*

(c) *"Financial institution" means any person doing business under the laws of any state or commonwealth or the United States relating to banks, bank holding companies, savings banks, savings and loan associations, trust companies, or credit unions;*

(d) *"Qualified person" means a:*

1. *Broker-dealer as defined in KRS 292.310;*
2. *Investment adviser as defined in KRS 292.310; or*
3. *Financial institution; and*

(e) *"Specified adult" means:*

1. *A natural person age sixty-five (65) or older; or*
2. *A natural person age eighteen (18) or older who a qualified person reasonably believes has a mental or physical impairment that renders that natural person unable to protect his or her own interests. A qualified person's reasonable belief may be based on facts and circumstances observed in the qualified person's business relationship with the natural person.*

(2) (a) *If a qualified person reasonably believes that financial exploitation has occurred, is occurring, has been attempted, or will be attempted, the qualified person may notify the following:*

1. *Authorized agencies; and*
 2. *Any third party that is:*
 - a. *Reasonably associated with the specified adult; or*
 - b. *Otherwise permitted by law.*
- (b) *Any report or disclosure made to authorized agencies pursuant to this subsection shall be confidential and shall not be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 to 61.884. The name of the notifying qualified person shall not be revealed to any person outside of the authorized agencies without the permission of the notifying qualified person.*
- (3) (a) *A qualified person may place a temporary hold on a transaction on or a disbursement from an account of a specified adult, or an account on which a specified adult is a beneficiary, if:*
1. *The qualified person fulfills any reporting obligations under KRS 209.030. Nothing in this subsection shall be read to expand any of the requirements of KRS 209.030;*
 2. *The qualified person reasonably believes that financial exploitation of a specified adult has occurred, is occurring, has been attempted, or will be attempted; and*
 3. *Not later than two (2) business days after the date the temporary hold was first placed, oral or written notification, which may be electronic, of the temporary hold and the reason for the temporary hold is made to:*
 - a. *All parties authorized to transact business on the account; and*
 - b. *Any person age eighteen (18) or older authorized by the specified adult or their legal representative, in writing, to be contacted about the specified adult's account.*
- (b) 1. *Unless otherwise provided in subparagraph 2. of this paragraph, any temporary hold authorized by this subsection shall expire upon the sooner of:*
- a. *A determination by the qualified person that the disbursement or transaction will not result in financial exploitation of the specified adult; or*
 - b. *Not later than fifteen (15) business days after the date the qualified person first placed the temporary hold, unless the qualified person's internal review of the facts and circumstances supports its reasonable belief that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted, in which case the qualified person may extend the expiration to not later than twenty-five (25) business days after the date the qualified person first placed the temporary hold.*
2. *At any time, an agency of competent jurisdiction, including but not limited to the authorized agencies, or a court of competent jurisdiction may terminate or extend a temporary hold authorized by this subsection.*
- (4) *Notwithstanding subsection (2) or (3) of this section, a notification permitted or required by this section shall not be made to any person who is suspected of financial exploitation or other abuse.*
- (5) (a) *A qualified person shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of a specified adult to agencies charged with administering state adult protective services laws and to law enforcement, either as part of a referral to the agency or to law enforcement, or upon request of the agency or law enforcement pursuant to an investigation.*
- (b) *The records may include historical records as well as records relating to the most recent disbursements or disbursements that may comprise financial exploitation of a specified adult.*
- (c) *All records made available to agencies pursuant to this subsection shall be confidential and shall not be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 to 61.884.*
- (d) *Nothing in this subsection shall limit or otherwise impede the authority of the commissioner of the Department of Financial Institutions to access or examine the books and records of a qualified person as otherwise provided by law.*
- (6) *Notwithstanding any provision of law to the contrary, the authorized agencies may disclose to any notifying qualified person the general status or final disposition of any investigation that arose from a report made by the qualified person.*

- (7) *A qualified person that exercises good faith in making disclosures, placing a temporary hold, or providing access to records pursuant to this section shall be immune from any administrative or civil liability that might otherwise arise from such activities.*
- (8) *This section may be cited as the "Protection from Financial Exploitation Act."*

Signed by Governor April 10, 2018.

CHAPTER 128

(HB 96)

AN ACT relating to the investigation of fire related crimes.

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

➔Section 1. KRS 15.310 is amended to read as follows:

As used in KRS ~~15.310~~~~(15.315)~~ to 15.510, 15.990, and 15.992, unless the context otherwise requires:

- (1) "Basic training course" means the peace officer or court security officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council;
- (2) "Certified court security officer" means a court security officer who is certified under KRS 15.380 to 15.404;
- (3) "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.404;
- (4) "Certification" means the act by the council of issuing certification to a peace officer or court security officer who successfully completes the training requirements pursuant to KRS 15.404 and the requirements set forth within this chapter;
- (5) "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990, and 15.992;
- (6) "Court security officer" means a person required to be certified under KRS 15.380(1)(c) and who is charged with the duties set out in KRS 70.280;
- (7) "Department" means the Department of Criminal Justice Training of the Justice and Public Safety Cabinet;
- (8) *"Fire investigator" means a professional firefighter, as used in KRS 95A.210, who has been appointed to be a fire investigator and to exercise peace officer powers under Section 6 of this Act, or a deputy fire marshal who has been appointed to be a fire investigator and to exercise peace officer powers under Section 10 of this Act;*
- (9) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus police officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;
- ~~(10)(9)~~ "Peace officer" means a person defined in KRS 446.010, *or a fire investigator appointed to exercise peace officer powers under Section 6 or 10 of this Act;*
- ~~(11)(10)~~ "Secretary" means the secretary of the Justice and Public Safety Cabinet; and
- ~~(12)(11)~~ "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

➔Section 2. KRS 15.340 is amended to read as follows:

Subject to approval by the secretary, the department may make its facilities and services available upon the following terms:

- (1) The department may determine to which law enforcement agencies, corrections agencies and court agencies and its officers it will offer training;
- (2) In determining the law enforcement officers for which it will offer training and in allocating available funds, the department shall give first priority to "police officers" as defined by KRS 15.420(2), public airport authority security officers and campus police;
- (3) ***Fire investigators shall be offered training by the department;***
- (4) Except for the officers described in subsection (2) of this section, the department may determine whether persons to whom it offers training or agencies employing such persons must bear any or all costs of such training.

➔Section 3. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
 - (a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;
 - (b) City, county, and urban-county police officers;
 - (c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university police officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
 - (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Department of Alcoholic Beverage Control investigators appointed under KRS 241.090;
 - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040;
 - (i) ***Fire investigators appointed or employed under Section 6 or 10 of this Act;*** and
 - ~~(j)(4)~~ County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.
- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
 - (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers;
 - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
 - (i) Investigators employed by the Department of Charitable Gaming in accordance with KRS 238.510; and
 - (j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.

- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
- (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;
 - (d) Jailers;
 - (e) Kentucky Horse Racing Commission security officers employed under KRS 230.240; and
 - (f) Commissioner of the State Police.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

➔Section 4. KRS 15.383 is amended to read as follows:

- (1) In order to maintain his or her certification as a peace officer, each certified peace officer shall annually meet the marksmanship qualification requirement for a retired peace officer as specified in KRS 237.140. Each law enforcement agency *or other employing agency* whose officers are required to meet the requirements of this subsection shall retain a record of each of its officers having met the annual marksmanship qualification. These records shall be made available upon request to the Kentucky Law Enforcement Council and to the Justice and Public Safety Cabinet in order to carry out its responsibilities under KRS 15.330 and 15.450.
- (2) Any law enforcement *or other* agency employing a certified peace officer may require the certified peace officer to meet a marksmanship qualification requirement which is in excess of that specified in KRS 237.140. Failure of a certified peace officer to meet the increased marksmanship qualification requirement specified by his or her employing or appointing agency shall not affect the certification of the officer, but may subject the officer to discipline by the agency, including suspension or dismissal of the officer from the agency.

➔Section 5. KRS 15.442 is amended to read as follows:

- (1) A court security officer certified pursuant to KRS 15.380 to 15.404 shall not be a deputy sheriff.
- (2) A court security officer certified *or a fire investigator certified as a peace officer* pursuant to KRS 15.380 to 15.404 shall not be eligible for inclusion in the Kentucky Law Enforcement Foundation Program fund.
- (3) The appointment of a court security officer, whether certified or not, by a sheriff shall not affect the ability of the sheriff or certified deputy sheriffs to participate in the Kentucky Law Enforcement Foundation Program fund if all other requirements for participation in the fund under KRS 15.410 to 15.510 have been met. A sheriff or deputy sheriff who is otherwise eligible under KRS 15.410 to 15.510 for participation in the Kentucky Law Enforcement Foundation Program fund shall not be deemed ineligible because of the appointment of a court security officer by the sheriff or by any other body.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section and Section 8 of this Act, "fire investigator" means a professional firefighter, as defined in KRS 95A.210, who has been appointed to be a fire investigator and to exercise peace officer powers.*
- (2) *The chief of a fire department may appoint a professional firefighter, as defined in KRS 95A.210, to be a fire investigator and to exercise peace officer powers in order to investigate crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.*
- (3) *An individual appointed to be a fire investigator and to exercise peace officer powers shall take an oath to faithfully perform the duties of his or her office, shall affirm that he or she possesses the minimum qualifications under Section 12 of this Act, and shall undergo a basic training course approved by the Kentucky Law Enforcement Council.*
- (4) *The employing agency or jurisdiction of the fire investigator shall pay for the training required for certification by the Kentucky Law Enforcement Council.*
- (5) *Upon the Kentucky Law Enforcement Council's verification that the required standards have been met, a fire investigator shall have peace officer powers to investigate crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.*

- (6) *A fire investigator may exercise his or her powers in a location other than the city or county in which he or she was appointed upon the request of:*
- (a) *The chief of police, the chief of a fire department, the sheriff, or the chief executive of the city or county in which the fire investigator's services are to be utilized; or*
 - (b) *A federal agency that has an ongoing investigation in the city or county in which the fire investigator's services are to be utilized.*
- (7) *A fire investigator shall not:*
- (a) *Patrol the roads, streets, or highways;*
 - (b) *Issue traffic citations; or*
 - (c) *Perform general law enforcement duties outside of investigating crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

- (1) *All fire investigators appointed to exercise peace officer powers under Section 6 of this Act that are appointed on or after the effective date of this Act, shall, within one (1) year of their appointment or employment, successfully complete a basic training course as established by KRS 15.440 at a school certified or recognized by the Kentucky Law Enforcement Council.*
- (2) *All fire investigators specified in subsection (1) of this section shall, upon completion of the basic training required in the same section, successfully complete forty (40) hours of annual in-service training as established by KRS 15.440(1)(e) that has been certified or recognized by the Kentucky Law Enforcement Council.*
- (3) *All fire investigators appointed or employed before the effective date of this Act shall successfully complete forty (40) hours of annual in-service training as established by KRS 15.440(1)(e) that has been certified or recognized by the Kentucky Law Enforcement Council.*
- (4) *In the event of extenuating circumstances beyond the control of the fire investigator such as injury, illness, or personal tragedy which prevents the fire investigator from completing the basic or in-service training within the time specified in this section, the officer shall complete the training within one (1) year after return to duty. Any fire investigator who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and may be removed from an appointment as a fire investigator.*

➔Section 8. KRS 95.500 is amended to read as follows:

- (1) The chief of the fire department in cities or urban-county governments, or an officer acting under his authority, shall be present at all fires and investigate their cause. He may examine witnesses, compel the production of testimony, administer oaths, make arrests, and enter any building for the purpose of examination that, in his opinion, is in danger from fires. He shall report his proceedings to the city legislative body when required.
- (2) The chief shall direct and control the operations of the members of the fire department in the discharge of their duties. He shall have access to and use of all cisterns, fireplugs, the waters of the waterworks, and the cisterns of private persons, for the purpose of extinguishing fires. He shall have the right to examine all cisterns, and all plugs and pipes of the waterworks, to see that they are in condition for use in case of fire. He shall have control of all buildings, hose, engines, and other equipment provided for the fire department. He shall perform such other duties as the legislative body shall, by ordinance, prescribe.
- (3) The fire department of each city listed on the registry pursuant to subsection (5) of this section or urban-county government shall be divided into three (3) platoons of firefighters. Each platoon, excluding the chief, the assistant chief, clerical employees, maintenance employees, fire inspectors, *fire investigators*, and arson investigators, in fire departments in the cities listed on the registry or in urban-county governments, shall be on duty for twenty-four (24) consecutive hours, after which the platoon serving twenty-four (24) hours shall be allowed to remain off duty for forty-eight (48) consecutive hours, except in cases of dire emergency. The chief of the fire department shall arrange the schedule of working hours to comply with the provisions of this section. The pay, rank, or benefits of the members and officers of the fire department shall not be reduced as a result of this subsection.
- (4) In each city or urban-county government listed on the registry, all employees of the fire department shall be given not less than two (2) weeks leave of absence annually, with full pay.

- (5) On or before January 1, 2015, the Department for Local Government shall create a registry of cities that shall be required to comply with the provisions of subsections (3) and (4) of this section. The Department for Local Government shall include each of those cities on the registry that were classified as cities of the second class on August 1, 2014. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 9. KRS 227.200 is amended to read as follows:

As used in KRS 227.200 to 227.400, unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of housing, buildings and construction;
- (2) "Department" means the Department of Housing, Buildings and Construction;
- (3) ***"Fire investigator" means a deputy fire marshal who has been appointed by the state fire marshal to be a fire investigator and to exercise peace officer powers in order to investigate crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.***
- (4) "Fire loss" means loss of or damage to property, loss of life or personal injury, by fire, lightning, or explosion;
- (5)~~[(4)]~~ "Owner" means any person who owns, occupies, or has charge of any property;
- (6)~~[(5)]~~ "Property" means property of all types, both real and personal, movable and immovable;
- (7)~~[(6)]~~ "Rule" or "regulation" means a general order of the commissioner, designed for the prevention of fire loss, which affects or may affect property rights of a designated class of owners or for the prevention of fire loss by certain indicated hazards;
- (8)~~[(7)]~~ "Order" or "special order" means an order of the state fire marshal, designed for the prevention of fire loss, that affects or may affect the property rights of a particular owner or designated property.

➔Section 10. KRS 227.220 is amended to read as follows:

- (1) The state fire marshal shall enforce or aid in the enforcement of all laws, administrative regulations, and ordinances of the state and its political subdivisions relating to fire loss as defined in KRS 227.200:
 - (a) The prevention or reduction of loss by fire or by other hazard or risk insured by property or casualty insurance companies doing business in this state, except as to disability insurance and workers' compensation, and shall enforce any other regulations or methods adopted for the prevention of loss from such hazards or risks in order to promote the safety of persons or property;
 - (b) The manufacture, transportation, storage, sale, or use of combustibles, explosives, and hazardous materials or equipment;
 - (c) The design, construction, and maintenance of property which has a direct bearing on safety to life and property;
 - (d) The construction, installation, maintenance, or equipment of fire alarm systems, fire protection and extinguishing equipment, and fire escapes and other means of access to or exit from property; and
 - (e) Arson and related offenses.
- (2) The chief state building official shall enforce and administer all applicable provisions of the Kentucky Building Code, including all the provisions designed for the prevention of fire loss, and shall have all the powers and duties awarded by KRS Chapter 198B and the Kentucky Building Code.
- (3) The state fire marshal is authorized to:
 - (a) Investigate the cause, origin, and circumstances of fires and explosions for the purpose of detecting and suppressing arson and related offenses, or for the purpose of minimizing or preventing fire loss;
 - (b) Supervise and make periodic inspections of all property within the state, and assist cities having fire departments in making like periodic inspections of all property in cities, except occupied private dwellings;
 - (c) Issue and enforce reasonable emergency orders and orders in accordance with KRS 227.330 for the prevention of fire loss, and for the adoption, approval, and installation of safety measures, remodeling, and equipment as will minimize fire loss;

- (d) Provide technical and engineering advice and assistance to state and local governmental agencies in relation to fire prevention or fire protection;
 - (e) Direct and assist owners of educational institutions, places of public assembly, institutional buildings, public buildings, factories, business buildings, or other places where persons congregate, in the instruction of fire prevention, and the holding of fire drills;
 - (f) Conduct fire prevention and educational campaigns;
 - (g) Conduct examinations into the cause, origin, or circumstances of fire losses;
 - (h) Hold administrative hearings in accordance with the KRS Chapter 13B, as may be required by law or deemed by the state fire marshal necessary or desirable as to any matter within the scope of this chapter. All administrative hearings shall be public, unless the state fire marshal, or an authorized designee, determines that a private hearing would be in the public interest, in which case, and only with the consent of all parties to the hearing, the hearing shall be private;
 - (i) Direct research in the field of fire protection and accept gifts and grants for these purposes;
 - (j) ***Appoint deputy fire marshals to be fire investigators;*** and
 - ~~(k)(i)~~ Recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education.
- (4) The state fire marshal shall head the Division of Fire Prevention in the department.

➔SECTION 11. A NEW SECTION OF KRS 227.200 TO 227.400 IS CREATED TO READ AS FOLLOWS:

- (1) ***A deputy fire marshal appointed to be a fire investigator and to exercise peace officer powers shall take an oath to faithfully perform the duties of his or her office, shall affirm that he or she possesses the minimum qualifications under Section 12 of this Act, and shall undergo a basic training course approved by the Kentucky Law Enforcement Council.***
- (2) ***The employing agency of the deputy fire marshal shall pay for the training required for certification by the Kentucky Law Enforcement Council.***
- (3) ***Upon the Kentucky Law Enforcement Council's verification that the required standards have been met, a fire investigator shall have peace officer powers to investigate crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.***
- (4) ***A fire investigator shall not:***
 - (a) ***Patrol the roads, streets, or highways;***
 - (b) ***Issue traffic citations; or***
 - (c) ***Perform general law enforcement duties outside of investigating crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.***
- (5) ***All fire investigators appointed to exercise peace officer powers under Section 10 of this Act that are appointed on or after the effective date of this Act, shall, within one (1) year of their appointment or employment, successfully complete a basic training course as established by KRS 15.440 at a school certified or recognized by the Kentucky Law Enforcement Council.***
- (6) ***All fire investigators specified in subsection (5) of this section shall, upon completion of the basic training required, successfully complete forty (40) hours of annual in-service training as established by KRS 15.440(1)(e) that has been certified or recognized by the Kentucky Law Enforcement Council.***
- (7) ***All fire investigators appointed or employed before the effective date of this Act shall successfully complete forty (40) hours of annual in-service training as established by KRS 15.440(1)(e) that has been certified or recognized by the Kentucky Law Enforcement Council.***
- (8) ***In the event of extenuating circumstances beyond the control of the fire investigator such as injury, illness, or personal tragedy which prevents the fire investigator from completing the basic or in-service training within the time specified in this section, the officer shall complete the training within one (1) year after return to duty. Any fire investigator who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and may be removed from an appointment as a fire investigator.***

➔Section 12. KRS 15.382 is amended to read as follows:

A person certified after December 1, 1998, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:

- (1) Be a citizen of the United States;
- (2) Be at least twenty-one (21) years of age;
- (3)
 - (a) Be a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; or
 - (b) Possess a High School Equivalency Diploma;
- (4) Possess a valid license to operate a motor vehicle;
- (5) Be fingerprinted for a criminal background check;
- (6) Not have been convicted of any felony;
- (7) Not be prohibited by federal or state law from possessing a firearm;
- (8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
- (9) Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;
- (10) Have passed a medical examination as defined by the council by administrative regulation and provided by a licensed physician, physician assistant, or advanced practice registered nurse to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council, which shall accept them as complying with KRS ~~15.310~~~~15.345~~ to 15.510;
- (11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS ~~15.310~~~~15.345~~ to 15.510;
- (12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS ~~15.310~~~~15.345~~ to 15.510;
- (13) Have been interviewed by the employing agency;
- (14) Not have had certification as a peace officer permanently revoked in another state;
- (15) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council, which shall accept them as complying with KRS ~~15.310~~~~15.345~~ to 15.510;
- (16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS ~~15.310~~~~15.345~~ to 15.510; and
- (17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for

employment as a peace officer to the council, which shall accept them as complying with KRS ~~15.310~~~~15.315~~ to 15.510.

➔Section 13. This Act takes effect January 1, 2019.

Signed by Governor April 10, 2018.

CHAPTER 129

(HB 114)

AN ACT relating to TVA in-lieu-of-tax payments, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. KRS 96.895 is amended to read as follows:

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

- (a) *"Book value" means original cost unadjusted for depreciation as reflected in the TVA's books of account;*
- (b) *"Department" means the Department for Local Government;*
- (c) *"Fund" means the regional development agency assistance fund established in subsection (4) of this section;*
- (d) *"Fund-eligible county" means one (1) of Adair, Allen, Ballard, Barren, Bell, Butler, Caldwell, Calloway, Carlisle, Christian, Clinton, Cumberland, Edmonson, Fulton, Graves, Grayson, Harlan, Hart, Henderson, Hickman, Livingston, Logan, Lyon, Marshall, McCracken, McCreary, Metcalfe, Monroe, Muhlenberg, Ohio, Russell, Simpson, Todd, Trigg, Union, Warren, Wayne, Webster, or Whitley Counties;*
- (e) *"Regional development agency" or "agency" means a local industrial development authority established under KRS 154.50-301 to 154.50-346 that is designated by a fiscal court to receive a payment pursuant to this section;*
- (f) *"TVA" means the Tennessee Valley Authority; and*
- (g) *"TVA property" means land owned by the United States and in the custody of the TVA, together with improvements that have a fixed situs on the land, including work in progress but excluding temporary construction facilities, if these improvements either:*
 - 1. *Were in existence when title to the land on which they are situated was acquired by the United States; or*
 - 2. *Are allocated by the TVA or determined by it to be allocable to power. However, manufacturing machinery as interpreted by the department for franchise tax determination; ash disposal systems; and coal handling facilities, including railroads, cranes and hoists, and crushing and conveying equipment, shall be excluded.*

(2) *Book value shall be determined, for purposes of applying this section, as of the June 30 used by the TVA in computing the annual payment to the Commonwealth that is subject to redistribution by the Commonwealth.*

(3)~~(1)~~ Except for payments made directly by the TVA~~Tennessee Valley Authority~~ to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the TVA~~Tennessee Valley Authority~~, as authorized by Section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts, as provided in *subsections (6) and (7)*~~subsection (2)~~ of this section.

(4) (a) *The regional development agency assistance fund is hereby established in the State Treasury.*

- (b) *The fund shall be administered by the department for the purpose of providing funding to agencies that are designated to receive funding in a given fiscal year by the fiscal court of each fund-eligible county through the Regional Development Agency Assistance Program established in Section 2 of this Act.*
- (c) *The fund shall only receive the moneys transferred from the general fund pursuant to subsection (5) of this section.*
- (d) *Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year. Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
- (5) *For fiscal years beginning on or after July 1, 2018, a portion of the total fiscal year payment received by the Commonwealth that is allocated to the general fund shall be transferred from the general fund to the regional development agency assistance fund established in subsection (4) of this section. This portion shall be equal to:*
 - (a) *In fiscal year 2018-2019, two million dollars (\$2,000,000);*
 - (b) *In fiscal year 2019-2020, four million dollars (\$4,000,000); and*
 - (c) *In each fiscal year, beginning with the 2020-2021 fiscal year, six million dollars (\$6,000,000).*
- ~~(6)(2)~~ The payment to each county, city, and school district shall be determined by the proportion that the book value of ~~TVA~~~~[Tennessee Valley Authority]~~ property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of ~~TVA~~~~[Tennessee Valley Authority]~~ property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates.~~[, provided,]~~ However, *for purposes of this calculation*, each public school district~~[for the purposes of this calculation]~~ shall have ~~its~~~~[their]~~ tax rate increased by thirty cents (\$0.30).
- ~~(7)(3)~~ As soon as practicable after the amount of payment to be made to the Commonwealth~~[of Kentucky]~~ is finally determined by the ~~TVA~~~~[Tennessee Valley Authority]~~, the~~[Kentucky]~~ department~~[of Revenue]~~ shall determine the book value of ~~TVA~~~~[Tennessee Valley Authority]~~ property in each county, city, and school district and shall prorate the *payments allocated to counties, cities, and school districts under subsection (3) of this section*~~[total payments received from the Tennessee Valley Authority, except payments received directly from the Tennessee Valley Authority,]~~ among the distributees as provided in subsection ~~(6)(2)~~ of this section. The department~~[of Revenue]~~ shall certify the payment due each taxing district to the Finance and Administration Cabinet which shall make the payment to such district.
- (8) *In each fiscal year, after the department has calculated the prorated payment amount that is due to each county pursuant to subsection (7) of this section, the department shall then make a written request to the fiscal court of each fund-eligible county for the name and address of the agency the fiscal court designates to receive a payment from the fund pursuant to subsection (5) of this section.*
- (9) *Within sixty (60) days of the date of the department's request, each fiscal court shall designate in writing one (1) agency that shall receive a share of the total amount of funds transferred to the fund in that fiscal year pursuant to subsection (5) of this section. Each agency's share shall be calculated as the total amount of funds transferred to the fund in that fiscal year divided by the total number of agencies designated to receive funds by fiscal courts of fund-eligible counties. Once the amount is determined by the department, the payment shall be paid by the Finance and Administration Cabinet directly to the designated agency. No amount shall be taken from the fund to pay administrative expenses by the department.*
- (10) *If a fiscal court does not respond to the department within sixty (60) days of the date of the department's request, the payment otherwise due to an agency designated by that fiscal court shall be reallocated equally among the agencies that have been designated to receive payments by the other fiscal courts.*
- (11) *All agencies receiving funds under this section shall provide a written report annually, no later than October 1, to the fiscal court that designated it for payment and to the Interim Joint Committee on Appropriations and Revenue. The report shall describe how the funds were expended and the results of the use of funds in terms of economic development and job creation.*
- ~~[(4)]~~ As used in subsections (2) and (3) of this section, "~~Tennessee Valley Authority Property~~" means land owned by the United States and in the custody of the Tennessee Valley Authority, together with such improvements (including work in progress but excluding temporary construction facilities) as have a fixed situs thereon if and to the extent that such improvements either:

- ~~(a) Were in existence when title to the land on which they are situated was acquired by the United States; or~~
- ~~(b) Are allocated by the Tennessee Valley Authority or determined by it to be allocable to power; provided, however, that manufacturing machinery as interpreted by the Department of Revenue for franchise tax determination shall be excluded along with ash disposal systems and, coal handling facilities, including railroads, cranes and hoists, crushing and conveying equipment. As used in said subsections "book value" means original cost unadjusted for depreciation as reflected in Tennessee Valley Authority's books of account. "Book value" shall be determined, for purposes of applying said subsections, as of the June 30 used by the Tennessee Valley Authority in computing the annual payment to the Commonwealth which is subject to redistribution by the Commonwealth.]~~

~~(12)(5)}~~ This section shall be applicable to all payments received after *the effective date of this Act*~~{September 30, 1985,}~~ from the TVA~~{Tennessee Valley Authority}~~ under Section 13 of the Tennessee Valley Authority Act as amended.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

- (1) A Regional Development Agency Assistance Program is established to consist of a system of grants to agencies designated by fiscal courts of counties designated in Section 1 of this Act. Grants shall be administered by the Department for Local Government.**
- (2) (a) Grants obtained under this program shall be used for:**
 - 1. Economic development and job creation activities that the agency is empowered to undertake in that county;**
 - 2. Acquiring federal, state, or private matching funds to the extent possible; and**
 - 3. Debt service for approved projects.**
- (b) Grants obtained under this program shall not be used for salaries or consulting fees.**
- (3) Applications for grants from funds provided for in Section 1 of this Act shall be made by the legislative bodies of one (1) or more counties entitled to receive money from the regional development agency assistance fund.**
- (4) The Department for Local Government shall review and approve grant applications from counties for agencies that operate in, or serve the interest of, the county whose fiscal court designated it to receive funding. Multiple counties may also submit a joint application requesting that part of their allotted funds be directed to an agency for a project that affects the counties.**
- (5) By October 1 of each year, the commissioner of the Department for Local Government shall provide, in writing, to each the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section since the last report, a listing of all grants awarded, the amount of the award, the recipient agency, and the related project.**
- (6) The Department for Local Government shall require that any funds granted under this section include an agreement that the recipient agency shall certify that the funds were expended for the purpose intended. The department shall determine whether the certification should be an independent annual audit or an internal certification, taking into account the size of the agency and the financial burden an independent annual audit may impose on the agency. In the case of an independent annual audit, the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit or certification of compliance shall be forwarded to the Department for Local Government within eighteen (18) months after the end of the fiscal year.**

➔Section 3. Whereas economic development and job creation initiatives at the local level are of vital importance to the improvement of the quality of life for all Kentuckians, and increased funding is greatly needed to support those initiatives as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2018.

CHAPTER 130

(HB 138)

AN ACT relating to boards of adjustment.

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

➔Section 1. KRS 100.217 is amended to read as follows:

- (1) (a) Before any zoning regulation may have legal effect within the planning unit, a board or boards of adjustment shall be appointed for the planning unit as stated in the agreement under which the unit operates. ***The agreement may provide for a joint board of adjustment.*** The agreement may provide for additional boards of adjustment with jurisdiction of a particular city or area within the planning unit. Provided, that the jurisdiction of the boards of adjustment so established shall be clearly defined as to territorial limits, that all territory within the planning unit is within the jurisdiction of some board of adjustment so established and, that no territory is subject to the jurisdiction of more than one (1) board of adjustment, except as provided in KRS 100.203(5).
- (b) Except as provided by paragraph (c) of this subsection, in a county containing a consolidated local government where a planning agreement is not required, there shall be one (1) board of adjustment which shall be established by ordinance of the consolidated local government. Until such time as the consolidated local government establishes and appoints a board of adjustment pursuant to this subsection, the existing board of adjustment for the county shall serve as the board of adjustment for the entire planning unit.
- (c) A city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census within a county containing a consolidated local government where a planning agreement is not required may establish, by ordinance, a board of zoning adjustment under the provisions of this section. If such a city creates a board of zoning adjustment, then that board of zoning adjustment shall have exclusive jurisdiction within that city's territorial boundaries.
- (2) (a) A board of adjustment shall consist of either three (3), five (5), or seven (7) members, all of whom must be citizen members, and not more than two (2) of whom may be citizen members of the planning commission.
- (b) ***A joint board of adjustment shall consist of no fewer than three (3) members, all of whom must be citizen members, and no more than two (2) of whom may be citizen members of the planning commission. Each appointing authority whose jurisdiction is represented by the joint board shall be entitled to appoint one (1) member to represent that jurisdiction.***
- (3) The mayor shall be the appointing authority for cities, and the county judge/executive shall be the appointing authority for counties, subject to the approval of their respective legislative bodies. The mayor shall be the appointing authority for a consolidated local government pursuant to the provisions of KRS 67C.139.
- (4) The term of office for the board of adjustment shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively.
- (5) Vacancies on the board of adjustment shall be filled within sixty (60) days by the appropriate appointing authority. If the authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.
- (6) All members of boards of adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, county judge/executive, notary public, clerk of a court, or justice of the peace within the district or county in which he resides.
- (7) Reimbursement for expenses or compensation or both may be authorized for members on a board of adjustment.
- (8) Any member of a board of adjustment may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member of the board of adjustment shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the board of

adjustment, which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the Circuit Court of the county in which he resides.

- (9) Notwithstanding subsection (4) of this section, when a city of the first class and a county containing such city have in effect a compact pursuant to KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, if the board is not reorganized pursuant to subsection (1) of this section, the mayor, and county judge/executive with approval of the fiscal court, shall adjust the terms of the sitting members to provide that the terms of one-third (1/3) plus one (1) of the members expire in one (1) year, the terms of one-third (1/3) of the members in two (2) years, and the terms of one-third (1/3) of the members expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years. Notwithstanding subsection (4) of this section, upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon expiration of the terms of incumbent members, their successors shall be appointed to three (3) year terms which are staggered.
- (10) Each board of adjustment annually shall elect a chairman, vice chairman, and secretary and any other officers it deems necessary, and any officer shall be eligible for reelection at the expiration of his term.

Signed by Governor April 10, 2018.

CHAPTER 131

(HB 142)

AN ACT relating to the distribution of school funds.

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

➔Section 1. KRS 157.410 is amended to read as follows:

For each school year the Finance and Administration Cabinet, on the certification of the chief state school officer, shall draw warrants on the State Treasurer for the amount of the public school fund due each district. Checks shall be issued by the State Treasurer and transmitted to the Department of Education or electronically transferred for distribution to the proper officials of the school districts when the districts have fully complied with the school laws and administrative regulations of the Kentucky Board of Education. The chief state school officer shall:

- (1) *Determine on or before May 1 of each year, the estimated allotment of school funds to which each district is entitled for the upcoming fiscal year under KRS 157.310 to 157.440. On July 1, August 1, and September 1 of each fiscal year, one-twelfth (1/12) of the estimated allotment shall be paid to each school district;*
- (2) *Revise the estimated allotment on or before October 1 of each year. On October 1, November 1, December 1, January 1, February 1, and March 1 of each fiscal year, one-twelfth (1/12) of the revised estimated allotment shall be paid to each school district; and*
- (3) *Determine on or before March 1 of each year, the exact final amount of the common school funds to which each district is entitled for the fiscal year. The remainder of the amount due to each district for the fiscal year shall be distributed in equal installments on April 1, May 1, and June 1 of each fiscal year*~~*determine on or before August 15 of each year the tentative allotment of school funds to which each district is entitled under the provisions of KRS 157.310 to 157.440. On July 1, August 1, and September 1, of each fiscal year, one twelfth (1/12) of the prior year's allotment minus the capital outlay shall be paid each school district. On the first of each month thereafter until the final calculation is completed, one twelfth (1/12) of each district's share of the tentative calculation minus capital outlay shall be distributed. On or before May 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter*~~.

Signed by Governor April 10, 2018.

CHAPTER 132**(HCR 226)**

A CONCURRENT RESOLUTION establishing the Diabetes Medical Emergency Response Task Force.

WHEREAS, diabetes refers to a group of diseases, known as Type I and Type II diabetes, which are characterized by high blood glucose levels that result from defects in the body's ability to produce or use insulin; and

WHEREAS, diabetes is a chronic illness that requires continuing medical care, patient self-management, and education to prevent acute complications and to reduce the risk of long-term complications; and

WHEREAS, all Type I diabetics and an increasing number of Type II diabetics are considered insulin dependent, meaning that they require regular doses of insulin to maintain healthy levels of glucose; and

WHEREAS, according to the Centers for Disease Control and Prevention's United States Diabetes Surveillance System, in 2014, approximately 12 percent of adults in Kentucky have been diagnosed with diabetes; and

WHEREAS, according to the Institute for Alternative Futures more than 14 percent of Kentuckians will be diagnosed with diabetes by 2030; and

WHEREAS, diabetics are at risk of experiencing both hypoglycemia, or low levels of blood glucose, and hyperglycemia, or high levels of blood glucose; and

WHEREAS, hypoglycemia can result in dizziness, confusion, weakness, anxiety, loss of consciousness, coma, and even death; and

WHEREAS, the American Diabetes Association reports that up to 30 percent of individuals with Type I diabetes and a similar percent of those diagnosed with Type II diabetes will suffer from at least one episode of hypoglycemia requiring emergency medical treatment annually; and

WHEREAS, hyperglycemia can result in blurred vision, headaches, nausea and vomiting, coma, diabetic ketoacidosis (DKA), hyperglycemic hyperosmolar state (HHS), and death; and

WHEREAS, according to the journal Current Emergency and Hospital Medicine Reports, DKA accounts for more than 110,000 hospitalizations annually in the United States, with a mortality rate of up to ten percent; and

WHEREAS, emergency medical responders in the Commonwealth do not currently carry fast-acting insulin, resulting in a delayed medical response and an increase in the number of emergency room visits for individuals with diabetes;

NOW, THEREFORE,

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

➔Section 1. The Legislative Research Commission shall establish the Diabetes Medical Emergency Response Task Force to study and develop recommendations to address the emergent medical needs of individuals diagnosed with Type I and Type II diabetes, to assist in developing consensus legislation to ensure that the emergency medical responders are prepared and equipped to meet the emergent medical needs of these individuals, and to advocate and publicize the importance of appropriate training and adequate medical supplies in responding to diabetic medical emergencies.

➔Section 2. (1) The Diabetes Medical Emergency Response Task Force shall be composed of the following members with final membership of the task force being subject to the consideration and approval of the Legislative Research Commission:

(a) Two members of the House Health and Family Services Committee, one to be appointed by the Speaker of the House, and one to be appointed by the Minority Floor Leader of the House;

(b) Two members of the Senate Health and Welfare Committee, one to be appointed by the President of the Senate, and one to be appointed by the Minority Floor Leader of the Senate;

- (c) The Executive Director of the Kentucky Board of Emergency Medical Services, or his or her designee;
 - (d) The President of the Kentucky Firefighter's Association, or his or her designee;
 - (e) The President of Kentucky Professional Fire Fighters, or his or her designee;
 - (f) The President of the Kentucky Association of Fire Chiefs, or his or her designee;
 - (g) The President of the Kentucky Association of Chiefs of Police, or his or her designee;
 - (h) The President of the Kentucky Ambulance Providers Association, or his or her designee;
 - (i) One physician licensed in Kentucky having a primary practice in the delivery of emergency medical care selected from a list of three physicians submitted by the Kentucky Medical Association;
 - (j) Two adult citizens of the Commonwealth who have been diagnosed with either Type I or Type II diabetes, one to be appointed by the House co-chair, and one to be appointed by the Senate co-chair;
 - (k) One representative of the American Diabetes Association selected from a list of three individuals submitted by the Kentucky Office of the American Diabetes Association; and
 - (l) One representative of the Juvenile Diabetes Research Foundation selected from a list of three individuals submitted by the Kentucky and Southern Indiana chapter of the Juvenile Diabetes Research Foundation.
- (2) The Speaker of the House and the President of the Senate shall each appoint one co-chair of the task force from among the members of the task force from their respective chamber.

➔Section 3. The task force shall meet at least bimonthly during the 2018 Interim of the General Assembly. The task force shall submit its findings, recommendations, and any proposed legislation to the Legislative Research Commission for referral to the appropriate committee or committees by December 1, 2018.

➔Section 4. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof and to designate a study completion date.

Signed by Governor April 10, 2018.

CHAPTER 133

(HB 246)

AN ACT relating to medication-assisted therapy in community pharmacies.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *For the purposes of this section, "pilot program" means a program in a county or set of counties, or a subset or subsets of the population, as designated by the Cabinet for Health and Family Services and the Department for Behavioral Health, Developmental and Intellectual Disabilities.*
- (2) *A pilot program is established to analyze the outcomes and effectiveness of a community pharmacy care delivery model for medication-assisted therapy for treatment of substance abuse in order to ensure that the Commonwealth is:*
 - (a) *Using approaches that have been shown to be effective;*
 - (b) *Intervening early at important stages and transitions; and*
 - (c) *Intervening in appropriate settings and domains.*
- (3) *Sources of data for the pilot program shall include, at a minimum, claims data from the Department for Medicaid Services, including claims data from Medicaid managed care organizations submitted to the Department for Medicaid Services.*
- (4) *As funds are available, the Cabinet for Health and Family Services shall initiate a pilot program to determine, collect, and analyze performance measurement data for a community pharmacy care delivery*

model for non-controlled medication-assisted therapy as part of substance abuse treatment services to determine practices that increase access to treatment, reduce frequency of relapse, provide better outcomes for patients, and control health costs related to substance abuse treatment. Program components shall:

- (a) *Use a community pharmacy care delivery model for non-controlled medication-assisted therapy for the treatment of substance abuse, as authorized by the Kentucky Board of Pharmacy pursuant to KRS 315.010(25);*
 - (b) *Include a wraparound services model that engages psychological and social support for the patient;*
 - (c) *Establish collaborative relationships between detention facilities, drug courts, community pharmacists, and practitioners who provide psychosocial interventions to evaluate individuals' eligibility for participation in a community pharmacy care delivery model for non-controlled medication-assisted therapy; and*
 - (d) *Include pilot program data collection designed to inform the outcomes and effectiveness of a community pharmacy care delivery model for medication-assisted therapy for treatment of substance abuse.*
- (5) *By December 31, 2019, the Cabinet for Health and Family Services shall provide a joint report to the Legislative Research Commission and the Office of the Governor that:*
- (a) *Details the findings of the pilot program; and*
 - (b) *Includes recommendations based on the pilot program's results for optimizing substance abuse treatment services provided in community pharmacies.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) *A prior authorization shall not be required for non-controlled medication-assisted therapies for community pharmacies as part of the pilot project established in Section 1 of this Act.*
- (2) *A pharmacy or pharmacist participating in the pilot project established pursuant to Section 1 of this Act shall not be barred, excluded, or have any other mandates, conditions, or restrictions placed on it by any Medicaid managed care organization, or its contracted pharmacy benefit manager, for participation in the pilot program established in Section 1 of this Act or from dispensing medications used in the medication-assisted treatment program.*

Signed by Governor April 10, 2018.

CHAPTER 134

(HB 252)

AN ACT relating to unemployment insurance.

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

➔Section 1. KRS 341.243 is amended to read as follows:

- (1) There is created within the State Treasury a special fund known as the service capacity upgrade fund that shall be administered separate and apart from all public money or funds of the state.
- (2) The service capacity upgrade fund shall be used solely for acquisition and upgrading of the technology base, program integrity functions, and service delivery capacity in support of the programs administered by the Office of Employment and Training. The secretary shall have full power, authority, and jurisdiction over the fund, including all money, property, and securities belonging thereto, and shall perform any act necessary or convenient in the administration of the fund consistent with this section. *Any expenditure of the fund shall be coordinated with and approved by the Commonwealth Office of Technology, and nothing in this section shall be construed as reducing or limiting the authority of the Commonwealth's chief information officer over all technology expenditures.* The secretary shall provide an annual report to the Interim Joint Committee on *Economic Development and Workforce Investment* ~~[Labor and Industry]~~ detailing all receipts and expenditures of the fund.

- (3) Any money collected under the provisions of this section shall be invested at interest in banks or other interest-bearing obligations of the United States. Investments shall at all times be made so that all the assets of the service capacity upgrade fund shall be convertible into cash when needed for the payment of expenses incurred in upgrading the service capacity of the Office of Employment and Training. All interest income received under this section shall be credited to the fund. The State Treasurer shall dispose of securities or other property belonging to the fund only under the direction of the secretary and the secretary of the Finance and Administration Cabinet.
- (4) ***Beginning October 1, 2018***~~[Effective January 1, 1999]~~, all rates otherwise established under KRS 341.270 and 341.272 shall be ***adjusted***~~reduced~~ by subtracting seventy-five thousandths percent (0.075%) from each rate, but only if the ***unemployment insurance*** trust fund balance ***exceeds the balance of the trust fund*** as of December 31, ***2017***~~[of the preceding year is equal to or greater than one and eighteen hundredths percent (1.18%) of the total wages paid in the state during the state fiscal year ended as of June 30 of that year.~~
- ~~(a) If the trust fund balance as of December 31, 1999, is less than the trust fund balance as of December 31, 1998, the amount of the rate reduction for calendar year 2000 shall be reduced by forty percent (40%) to the level of forty five thousandths percent (0.045%).~~
- ~~(b) If the trust fund balance as of December 31, 2000, is less than the trust fund balance as of December 31, 1999, the amount of the rate reduction for calendar year 2001 shall be forty percent (40%) less than the amount of the rate reduction which was in effect in calendar year 2000].~~
- (5) For any calendar year in which all rates have been reduced in accordance with subsection (4) of this section, all contributory employers shall pay into the service capacity upgrade fund an amount equal to the percentage by which rates were reduced multiplied by their taxable wages paid during that calendar year. Payments shall be made at the same time and in the same manner as prescribed for payment of contributions under KRS 341.260 and all regulations prescribed by the secretary in support of that section. The restrictions in KRS 341.470(1) apply equally to the provisions of this section. Failure to make these payments shall be subject to interest and all other collection actions provided for failure to make contributions under KRS 341.300.
- (6) All payments required under subsection (5) of this section, along with any interest due to late payment of these assessments, shall be deposited in the service capacity upgrade fund.
- (7) ***Notwithstanding subsection (4) of this section, the secretary may exercise his or her discretion to reduce the percentage rate prescribed in subsection (4) of this section or suspend required payments to the service capacity upgrade fund at any time.***
- (8) ***The secretary shall suspend the reduction of the rate prescribed in subsection (4) of this section at any time when collections for the service capacity upgrade fund exceed a cumulative amount of sixty million dollars (\$60,000,000). At the time payments are suspended, any funds thus far collected under subsection (4) of this section in excess of those necessary to fund technology upgrades, shall be deposited into the unemployment insurance trust fund. Any future collection of past due payments to the service capacity upgrade fund, including any applicable penalty and interest funds, shall be deposited into the penalty and interest fund.***~~The provisions of this section shall expire with regard to rates assigned for calendar years beginning after December 31, 2001, and any balance of moneys or property in the fund not expended or obligated for purposes consistent with this section by June 30, 2002, shall be deposited in the unemployment insurance trust fund].~~

➔Section 2. KRS 341.300 is amended to read as follows:

- (1) Contributions unpaid on the date on which they are due and payable, as prescribed by the secretary, shall be subject to interest at the rate of one and five-tenths percent (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the amount of such contributions, from and after such date until payment is received by the Office of Employment and Training, Department of Workforce Investment, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section or is the subject of an administrative appeal or court action. ***The interest charged for a month, in which the unpaid contributions remain unpaid, shall be considered accrued and therefore due and owing on the first day after the last day of the month in which the balance is due.*** Such interest shall be paid into the unemployment compensation administration fund.
- (2) If, after due notice, any subject employer defaults in any payment of contributions, interest or penalties thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending upon the jurisdictional amount in controversy including interest and penalties in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at

the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workers' compensation law.

- (3) At or after the commencement of an action under subsection (2) of this section, attachment may be had against the property of the liable subject employer for such contributions, interest, and penalties, without the execution of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.
- (4) An action for the recovery of contributions, interest, or penalties under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within ten (10) years from the due date of such contributions, except, in the case of the filing of a false or fraudulent report, the contributions due shall not be barred and may at any time be collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

➔Section 3. KRS 341.350 is amended to read as follows:

An unemployed worker shall, except as provided in KRS 341.360 and 341.370, be eligible for benefits with respect to any week of unemployment only if:

- (1) He *or she* has made a claim for benefits;
- (2) For an initial claim made on or after January 1, 2012, he *or she* has served a waiting period of one (1) week, during which he *or she* has not received benefits. The waiting week period shall be the first compensable week of an initial claim for benefits for which he *or she* is eligible and qualified to receive benefits under this chapter. A waiting week period shall be required for each benefit year, whether or not consecutive. No more than one (1) waiting week period shall be required in any benefit year. The waiting week shall become compensable once the remaining balance on the claim is equal to or less than the compensable amount for the waiting week;
- (3)
 - (a) He *or she* has registered for work with respect to such week in accordance with *administrative* regulations ~~promulgated~~~~[prescribed]~~ by the secretary; and
 - (b) He *or she* participates in reemployment services, such as job search assistance services, if pursuant to a profiling system established by the secretary, he *or she* has been determined to be likely to exhaust regular benefits unless:
 1. The claimant has completed the services to which he *or she* is referred; or
 2. There is justifiable cause for the claimant's failure to participate in the services. For the purpose of this section, "justifiable cause" shall be interpreted to mean what a reasonable person would do in like circumstances;
- (4) He *or she* is physically and mentally able to work;
- (5) He *or she* is available for suitable work, and making such reasonable effort to obtain work as might be expected of a prudent person under like circumstances;
- (6) His *or her* base-period wages in that calendar quarter of his *or her* base period in which such wages were highest are equal to at least *one thousand five hundred dollars (\$1,500)*~~seven hundred fifty dollars (\$750)~~, and his *or her* total base-period wages are not less than one and one-half (1-1/2) times the base-period wages paid to him *or her* in such quarter and he *or she* was paid base-period wages in the last six (6) months of his *or her* base period equal to at least eight (8) times his *or her* weekly benefit rate with a minimum of *one thousand five hundred dollars (\$1,500)*~~seven hundred fifty dollars (\$750)~~ earned outside the high quarter. *Beginning on January 1, 2020, and continuing on January 1 in even-numbered years thereafter, the secretary shall adjust the minimum base-period wages at a rate that is directly proportional to the average percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the two (2) previous calendar years;*
- (7) An otherwise eligible worker shall not be denied benefits under subsection (5) of this section or because of his *or her* failure to actively seek work, nor disqualified under paragraph (a) of subsection (1) of KRS 341.370 with respect to any week he *or she* is in training with the approval of the secretary.
- (8) Notwithstanding any other provisions of this chapter, no otherwise eligible worker shall be denied benefits for any week because he *or she* is in training approved under 19 U.S.C. sec. 2296 (Section 236(a)(1) of the Trade Act of 1974), nor shall such worker be denied benefits by reason of leaving work to enter such training

provided such work is not suitable employment, or because of the application to any such week in training of provisions in this law (or any applicable federal unemployment compensation law) relating to availability for work, active search for work, or refusal to accept work. For purpose of this subsection, the term "suitable employment" shall mean employment of a substantially equal or higher skill level than the worker's past adversely affected employment as defined in 19 U.S.C. sec. 2319 (Trade Act of 1974), and wages for such work are not less than eighty percent (80%) of the workers' average weekly wage as determined for purposes of the Trade Act of 1974.

- (9) The foregoing eligibility requirements and the conditions of benefit disqualifications imposed by KRS 341.370 shall be strictly construed. Nothing in this section, excepting subsection (6) of this section, nor in KRS 341.360 or 341.370 shall affect the establishment of a "benefit year."

➔Section 4. KRS 341.360 is amended to read as follows:

- (1) No worker may be paid benefits for any week of unemployment:
- (a) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that benefits may be paid unless the employer notifies the Office of Employment and Training, Department of Workforce Investment, in writing within seven (7) days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection, a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall be denied benefits by reason of a lockout;
 - (b) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States; but if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply; ~~for~~
 - (c)
 1. Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in KRS 341.067(2) or in an educational institution as defined in KRS 341.067(4), begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that the worker will perform such services in any such capacity for any institution or institutions of higher education or an educational institution in the second of such academic years or such terms; or
 2. Which, when based on service other than as defined in subparagraph 1. of this paragraph, in an institution of higher education or an educational institution, as defined in KRS 341.067(2) or (4), begins during the period between two (2) successive academic years or terms, if the worker performs such services in the first of such academic years or terms and there is a reasonable assurance that the worker will perform such services in the second of such academic years or terms; except that if benefits are denied to any worker under this paragraph and such worker was not offered an opportunity to perform such services for such institution of higher education or such educational institution for the second of such academic years or terms, such worker shall be entitled to a retroactive payment of benefits for each week for which the worker filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph; or
 3. Which, when based on service in any capacity defined in subparagraphs 1. and 2. of this paragraph, begins during an established and customary vacation period or holiday recess if the worker performs any such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such worker will perform any such services in the period immediately following such vacation period or holiday recess; or
 4. Based on service in any capacity defined in subparagraph 1. or 2. of this paragraph when such service is performed by the worker in an institution of higher education or an educational institution, as defined in KRS 341.067(2) or (4), while the worker is in the employ of an educational service agency, and such unemployment begins during the periods and pursuant to the conditions specified in subparagraphs 1., 2., and 3. of this paragraph. For purposes of this paragraph, the term "educational service agency" means a governmental agency or governmental

entity which is established and operated exclusively for the purpose of providing such services to one (1) or more institutions of higher education or educational institutions;

Notwithstanding any other provision of this paragraph,~~[except that]~~ any benefits paid to a worker based on service other than as defined in ***subparagraph*** ~~[subsection (1)(c)]~~1. of this ***paragraph***~~[section]~~ performed in an institution of higher education as defined in KRS 341.067(2) shall be deemed to have been paid as a result of Office of Employment and Training, Department of Workforce Investment, error and not recoverable by the cabinet or such institution if such payment is improper by virtue of the retroactive application to October 30, 1983, of ***subparagraph*** ~~[subsection (1)(c)]~~2. of this ***paragraph***~~[section]~~; ***or***

(d) ***With respect to which the worker is suspended from work for misconduct, as defined in KRS 341.370(6), connected with the work.***

- (2) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.
- (3) (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act.
- (b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.
- (c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

~~[(4) With respect to which the worker is suspended from work for misconduct, as defined in KRS 341.370(6), connected with the work.]~~

➔Section 5. KRS 341.540 is amended to read as follows:

- (1) As used in this section, unless the context clearly requires otherwise:
 - (a) "Substantially common" or "substantially the same" means that ***there is identifiable or demonstrative commonality or similarity of ownership, familial relationships, principals or corporate officers, day-to-day operations, assets and liabilities, and stated business***~~{one (1) or more individual or individuals own or exercise pervasive management or control over both the predecessor and successor employing unit. Factors indicating pervasive management or control include, but are not limited to, whether the predecessor and successor share:~~
 1. ~~One (1) or more individuals or family members as owners, on boards of directors, as shareholders, or executive or other officers; and~~
 2. ~~Titles to property, parent companies, workforce, assets, legal and professional representation, physical location, client pools, marketing services, Web sites, telephone numbers, or e mail addresses;~~
 - (b) "Trade" or "business" includes ***but is not limited to a commercial enterprise or establishment; any entity engaged in the supplying, production, or manufacturing of goods, commodities, or services; any entity engaged in commerce, sale for profit, or the providing of goods, personnel, or services***~~{the employing unit's workforce};~~
 - (c) "Knowingly" means having actual knowledge of, or acting with deliberate ignorance or disregard for, the prohibition involved;~~{and}~~
 - (d) "Violates" or "attempts to violate" includes, but is not limited to, intended evasion, misrepresentation, or willful nondisclosure; ***and***
 - (e) ***"Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code.***

- (2) (a) For the purpose of this chapter, if a subject employer transfers all or part of its trade or business, the acquiring employing unit shall be deemed a successor if the transfer is in accordance with administrative regulations promulgated by the secretary, or if ***there is substantially common ownership, management, or control of the subject employer and employing unit***~~the transferring and acquiring employing units have substantially the same pervasive management, ownership, or control~~. If an employing unit is deemed a successor, the transferring employing unit shall be deemed a predecessor.
- (b) For the purpose of this chapter, if a nonsubject employer acquires all or part of the trade or business of a subject employer, the nonsubject employer shall file an application with the Office of Employment and Training, Department of Workforce Investment to establish an unemployment reserve account within forty-five (45) days of employing personnel. The application will be considered and processed in accordance with administrative regulations promulgated by the secretary and shall require information necessary to determine whether the nonsubject employer is a successor of the subject employer and to establish an initial unemployment contribution rate for the employer. Factors to be considered in the determination of successorship and the fixing of the initial rate shall include but not be limited to the ***nonsubject*** employer's prior unemployment claims history, benefit charges, historical rate charges, and payment penalties assessed in the previous five (5) years, in addition to the factors set forth in subsection (6)(b) of this section. After consideration of these factors, and others that the applicant may submit in justification of an initial rate determination, the secretary shall set an appropriate contribution rate. Any determinations of initial unemployment contribution rates made pursuant to this subsection shall not be effective prior to January 1, 2018.
- (3) (a) Notwithstanding subsection (2)(b) of this section, Any successor to the trade or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including interest, and shall continue the payment of all contributions and interest due under this chapter, except that the successor shall not be required to assume the liability of any delinquent contributions and interest of a predecessor or predecessors unless the cabinet notifies the successor of the delinquency within six (6) months after the department has notice of the succession; and
- (b) Any nonsubject employer that is deemed a successor in whole or part ~~upon submission of the application referred to in subsection (2)(b) of this section~~ shall be allowed to make a one (1) time voluntary payment to pay off or reduce the negative reserve assumed from the predecessor. This payment shall be made within sixty (60) days of receipt of the first notice of a negative predecessor reserve account. This one (1) time voluntary payment cannot exceed the amount of negative reserve assumed by the successor.
- (4) The liability for delinquent contributions and interest imposed upon the successor by subsection (3) of this section shall be secondary to the liability of the predecessor or predecessors, and if the delinquency has been reduced to judgment, the order of execution on the judgment shall be as follows:
 - (a) Against the assets, both real and personal, of the predecessor or predecessors;
 - (b) Against the assets, both real and personal, of the business acquired; and
 - (c) Against the assets, both real and personal, of the successor or acquirer.
- (5) (a) Notwithstanding the provisions of subsection (3) of this section, any successor to a portion of the trade or business of a subject employer, who is, or by reason of the transfer becomes, a subject employer, shall assume the resources and liabilities of the predecessor's reserve account in proportion to the percentage of the payroll or employees assignable to the transferred portion. In calculating the transferred portion, the secretary shall utilize the last four (4) calendar quarters preceding the date of transfer for workers employed by the successor subsequent to that date. The taxable payroll, benefit charges and the potential benefit charges shall be assumed by the successors in a like proportion.
- (b) Notwithstanding the provisions of paragraph (a) of this subsection, if any employing unit succeeds to a portion of the trade or business of another employing unit; becomes, by reason of that succession, a subject employer with substantially the same ownership, management, or control as the predecessor employing unit; and lays off or terminates more than one-half (1/2) of the original employees transferred within six (6) months of the date of transfer; then the succession and creation of the new employing unit shall be voided, and the benefits attributable to the lay-offs or terminations shall be charged to the reserve account of the original employing unit.

- (6) (a) The contribution rate of a successor in whole or in part, which was a subject employer prior to succession, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which succession occurred; except that the rate of the successor shall be recalculated and made effective upon the first day of the calendar quarter immediately following the date of the transfer if there is substantially common ownership, management, or control of the predecessor and successor.
- (b) The contribution rate of a successor in whole or in part, which was not a subject employer prior to succession, shall be determined by a review of the application required by subsection (2)(b) of this section, except if the secretary finds, after a thorough investigation based on the use of objective factors, including but not limited to:
1. The cost of acquiring the business;
 2. How long the original business enterprise was continued; and
 3. Whether a substantial number of new employees were hired for performance of duties unrelated to the business activity prior to acquisition;
- that the succession was solely for the purpose of obtaining a rate lower than that prescribed in KRS 341.270(1) and 341.272 for a new employing unit, then the unemployment experience of the predecessor shall not be transferred, the rate for a new employing unit shall be assigned, and the employing unit shall be otherwise deemed a successor for the purpose of KRS 341.070(7) and subsection (3) of this section.
- (c) The contribution rate for a successor which becomes a subject employer through the simultaneous transfer, either in whole or in part, of two (2) or more predecessor reserve accounts shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the reserve accounts succeeded to as of the computation date for determining rates for the calendar year in which succession occurred.
- (d) The contribution rate of a successor which succeeds, either in whole or in part, to a predecessor's reserve account after a computation date, but prior to the beginning of the calendar year immediately following that computation date, shall be the rate determined in accordance with KRS 341.270, by effecting the transfer of the reserve account as of the computation date immediately preceding the date of succession.
- (7) Notwithstanding KRS 341.270, the contribution rate for an employing unit that knowingly violates or attempts to violate the provisions of this section or any other provision of the chapter related to determining the assignment of a contribution rate shall be the highest rate assignable under this chapter for the calendar year during which the violation or attempted violation occurred and the three (3) calendar years immediately following that year. If that employer's rate is already at the highest assignable rate, or if the amount of increase in the employer's rate would be less than an additional two percent (2%) for that year, then a penalty rate of contributions of an additional two percent (2%) of taxable wages shall be imposed for each year.
- (8) In addition to the penalties prescribed in subsection (7) of this section and KRS 341.990(9), any person who knowingly violates this section shall be subject to the penalties stipulated under KRS 341.990.
- (9) (a) The secretary shall establish procedures to identify the transfer of a business for purposes of this section.
- (b) The secretary shall have the authority and discretion to set *an initial*~~an initial~~ contribution rate upon the providing of justification by a subject employer and consideration of relevant factors, including but not limited to the factors set forth in subsections (2) and (6)(a) of this section.

Signed by Governor April 10, 2018.

CHAPTER 135

(HB 277)

AN ACT relating to the licensing of motor vehicles and operators.

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

➔Section 1. KRS 138.715 is amended to read as follows:

- (1) If any licensee neglects or refuses to make the return or pay the tax at the time provided in KRS 138.685, a penalty of twenty percent (20%) of the tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when due shall be paid on the tax.
- (2) If any licensee subject to the penalty provided in subsection (1) of this section submits to the department in writing the reasons for failure to comply with KRS 138.660 to 138.7291 and if the department finds the reasons sufficient evidence or justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty enacted therein to five percent (5%) of the amount of the tax due and delinquent, provided the five percent (5%) penalty may be reduced to one percent (1%) if the violation is the first violation by the taxpayer within the twelve (12) months.
- (3) If the penalties provided by this section are collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.552. Whenever any licensee neglects or refuses to make and file any report for any calendar quarter as required by KRS 138.685, or files an incorrect or fraudulent report, the department shall determine after an investigation the amount of the liability which the licensee has incurred under KRS 138.660 to 138.7291 for any particular quarter and assess and collect the amount of tax and penalties due.
- (4) Any licensee who fails to make any report required under the provisions of KRS 138.660 to 138.7291 within the time allowed may be required to pay a penalty of ~~{fifty dollars (\$50) for a first offense, two hundred fifty dollars (\$250) for a second offense, or }~~ five hundred dollars (\$500) for any ~~{subsequent }offense{ within any four (4) year period}~~. The penalty is to be assessed and collected in the manner provided for the assessment and collection of taxes, or the licensee may be proceeded against in a civil action instigated by the department. In addition, such licensee may be compelled to make the required return.
- (5) In any action for the collection of taxes due under KRS 138.660 to 138.7291 and any penalties or interest imposed in connection therewith, an assessment by the department of the amount of tax due and the interest or penalties due to the state shall constitute prima facie evidence of the claim of the state and the burden of proof shall be on the licensee to show that the assessment was incorrect or contrary to law.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

- (1) *The Commonwealth shall not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CDL holder's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law from appearing on the CDLIS driver record, whether the driver was convicted for an offense committed in the Commonwealth or another state.*
- (2) *This section shall not apply to the following violations:*
 - (a) *Parking;*
 - (b) *Vehicle weight; or*
 - (c) *Vehicle defect.*

➔Section 3. KRS 281A.165 is amended to read as follows:

- (1) The cabinet may waive the driving skills test for an applicant on active **or reserve** military service, **or who is a member of the National Guard**, or within **one (1) year** ~~{ninety (90) days}~~ of separation of service, who:
 - (a) Is currently licensed;
 - (b) Has experience driving a vehicle in the military that would require a commercial driver's license to operate as a civilian;
 - (c) Has a good driving record; and
 - (d) Certifies and provides verification that, during the two (2) year period immediately prior to applying for a commercial driver's license, the applicant:
 1. Drove a motor vehicle in the military that was representative of the commercial driver's license class and endorsement for which he or she is applying;
 2. Has not had his or her operator's license or commercial driver's license suspended, revoked, or canceled, or been disqualified from operating a commercial motor vehicle;

3. Has not been convicted of any of the disqualifying offenses in 49 C.F.R. sec. 383.51(b) while operating a commercial motor vehicle, or of any offense in a noncommercial vehicle that would be disqualifying under 49 C.F.R. sec. 383.51(b) if committed in a commercial motor vehicle;
 4. Has not been convicted of more than one (1) serious traffic violation, as defined in 49 C.F.R. sec. 383.5, while operating any type of motor vehicle;
 5. Has not been convicted of any violation of *military*, state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a traffic accident, *and has no record of being at fault in an accident while driving a vehicle in the military that would require a commercial driver's license to operate as a civilian*;
 6. Has not been convicted of any motor vehicle traffic violation that resulted in an accident; and
 7. Is or was regularly employed in a position in the Armed Forces of the United States requiring operation of a commercial motor vehicle of the group the applicant seeks to drive, and provides evidence of that employment in accordance with subsection (5) of this section.
- (2) The skills test waiver process described in subsection (1) of this section shall be completed, and the commercial driver's license issued, within *one (1) year*~~[ninety (90) days]~~ of separation of service.
 - (3) Military personnel who obtain the skills test waiver under this section shall be required to take the knowledge test pursuant to KRS 281A.130.
 - (4) Military personnel who obtain the skills test waiver under this section shall be required to pay the application fee as prescribed by KRS 281A.150, but shall not be charged the skills-testing fee as prescribed by KRS 281A.160.
 - (5) The cabinet shall promulgate administrative regulations under KRS Chapter 13A that establish an application form for waiver of the skills test by military personnel. As part of the application process, the applicant shall be required to provide:
 - (a) A copy of the applicant's DD-214 form showing the applicant's military occupational specialty; or
 - (b) A signed statement by the applicant's commanding officer or transportation officer, on a form provided by the cabinet, attesting to the fact that the applicant meets the requirements of this section.
- ➔Section 4. KRS 281A.170 (Effective until January 1, 2019) is amended to read as follows:
- (1) The commercial driver's license shall be marked "commercial driver's license" and "CDL" and shall be, to the maximum extent practicable, tamper proof. It shall include but is not limited to the following information:
 - (a) The name and present resident address of the licensee;
 - (b) The licensee's ~~color~~ photograph;
 - (c) A physical description of the licensee including sex, height, weight, and eye color;
 - (d) The licensee's date of birth;
 - (e) The licensee's signature;
 - (f) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive together with any endorsements or restrictions;
 - (g) The name of this state;
 - (h) The dates between which the license is valid; and
 - (i) Any other information required by the cabinet, except for a person's Social Security number.
 - (2) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the State Police.
 - (a) Classifications:
 1. Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.

2. Class B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, and any vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C vehicles.
 3. Class C - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:
 - a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or
 - b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by administrative regulations of the cabinet, pursuant to KRS Chapter 13A.
 4. Class D - All other vehicles not listed in any other class.
 5. Class E - Moped only.
 6. Class M - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.
- (b) Endorsements:
1. "H" - Authorizes the driver to operate a vehicle transporting hazardous materials.
 2. "T" - Authorizes operation of double trailers and triple trailers in those jurisdictions allowing the operation of triple trailers.
 3. "P" - Authorizes operation of vehicles carrying passengers.
 4. "N" - Authorizes operation of tank vehicles.
 5. "X" - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.
 6. "R" - Authorizes operation of all other endorsements not otherwise specified.
 7. "S" - Authorizes operation of school buses.
- (c) The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to outline restrictions on the operation of commercial vehicles and the associated codes to identify such restrictions, which shall appear on the face of the commercial driver's license.
- (3) Within ten (10) days after issuing a commercial driver's license, the cabinet shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.
 - (4) A commercial driver's license issued to a resident pursuant to this chapter shall expire in four (4) years unless the license was issued to a resident under the age of twenty-one (21). A commercial driver's license issued to a person who is not a resident shall be issued for one (1) year and shall not be renewable. The fee for a commercial driver's license issued to a nonresident shall be the same as the fee charged to a resident.
 - (5) A person under the age of twenty-one (21) shall not be licensed to operate a Class A, B, or C vehicle unless he has an "I" restriction. A commercial driver with an "I" restriction shall not drive a commercial motor vehicle in interstate commerce, unless he is exempt pursuant to 49 C.F.R. 391.2. A commercial driver under the age of twenty-one (21) shall not be allowed to operate a school bus or a vehicle transporting hazardous material in intrastate commerce.
 - (6) The holder of a commercial driver's license shall be considered to hold a valid Kentucky driver's license issued under the provisions of KRS 186.412.
- ➔Section 5. KRS 281A.170 (Effective January 1, 2019) is amended to read as follows:
- (1) The commercial driver's license shall be marked "commercial driver's license" and "CDL" and shall be, to the maximum extent practicable, tamper proof. It shall include but is not limited to the following information:
 - (a) The name and present resident address of the licensee;
 - (b) The licensee's ~~color~~ photograph;
 - (c) A physical description of the licensee including sex, height, weight, and eye color;

- (d) The licensee's date of birth;
 - (e) The licensee's signature;
 - (f) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive together with any endorsements or restrictions;
 - (g) The name of this state;
 - (h) The dates between which the license is valid; and
 - (i) Any other information required by the cabinet, except for a person's Social Security number.
- (2) A commercial driver's license issued under this chapter shall contain a denotation that either:
- (a) The commercial driver's license is a voluntary travel ID identity document that complies with the security standards set forth by Pub. L. No. 109-13, Title II, and may be used for identification for federal purposes; or
 - (b) The commercial driver's license shall not be used for federal identification purposes.
- (3) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the State Police.
- (a) Classifications:
- 1. Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.
 - 2. Class B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, and any vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C vehicles.
 - 3. Class C - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:
 - a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or
 - b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by administrative regulations of the cabinet, pursuant to KRS Chapter 13A.
 - 4. Class D - All other vehicles not listed in any other class.
 - 5. Class E - Moped only.
 - 6. Class M - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.
- (b) Endorsements:
- 1. "H" - Authorizes the driver to operate a vehicle transporting hazardous materials.
 - 2. "T" - Authorizes operation of double trailers and triple trailers in those jurisdictions allowing the operation of triple trailers.
 - 3. "P" - Authorizes operation of vehicles carrying passengers.
 - 4. "N" - Authorizes operation of tank vehicles.
 - 5. "X" - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.
 - 6. "R" - Authorizes operation of all other endorsements not otherwise specified.
 - 7. "S" - Authorizes operation of school buses.

- (c) The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to outline restrictions on the operation of commercial vehicles and the associated codes to identify such restrictions, which shall appear on the face of the commercial driver's license.
- (4) Within ten (10) days after issuing a commercial driver's license, the cabinet shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.
- (5) A commercial driver's license issued to a resident pursuant to this chapter shall expire in eight (8) years unless the license was issued to a resident under the age of twenty-one (21). A commercial driver's license issued to a person who is not a resident shall be issued for one (1) year and shall not be renewable. The fee for a commercial driver's license issued to a nonresident shall be the same as the fee charged to a resident.
- (6) A person under the age of twenty-one (21) shall not be licensed to operate a Class A, B, or C vehicle unless he has an "I" restriction. A commercial driver with an "I" restriction shall not drive a commercial motor vehicle in interstate commerce, unless he is exempt pursuant to 49 C.F.R. 391.2. A commercial driver under the age of twenty-one (21) shall not be allowed to operate a school bus or a vehicle transporting hazardous material in intrastate commerce.
- (7) The holder of a commercial driver's license shall be considered to hold a valid Kentucky driver's license issued under the provisions of KRS 186.4102 and 186.412.

➔Section 6. The following KRS section is repealed:

138.670 Amount and conditions of bond -- Cabinet may require new bond -- Additional bond -- Release of surety.

Signed by Governor April 10, 2018.

CHAPTER 136

(HB 327)

AN ACT relating to statutorily mandated fees.

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

➔Section 1. KRS 194A.050 is amended to read as follows:

- (1) The secretary shall formulate, promote, establish, and execute policies, plans, and *comprehensive* programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.
- (2) The secretary may utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations relating to initiatives of the Department for Public Health. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority.
- (3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, *but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year* ~~none of which shall exceed one hundred dollars (\$100)}~~, to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

➔Section 2. KRS 194A.707 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish by the promulgation of administrative regulation under KRS Chapter 13A, an initial and annual certification review process for assisted-living communities. This administrative regulation shall establish procedures related to applying for, reviewing, and approving, denying, or revoking certification, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B.
- (2) An on-site visit of an assisted-living community shall be conducted by the cabinet:
 - (a) As part of the initial certification review process;
 - (b) On a biennial basis as part of the certification review process if during or since the previous certification review an assisted-living community has not received:
 1. Any statement of danger, unless withdrawn by the cabinet; or
 2. A finding substantiated by the cabinet that the assisted-living community delivered a health service; and
 - (c) Within one (1) year of the date of the previous certification review if during or since the last certification review an assisted-living community has received:
 1. Any statement of danger that was not withdrawn by the cabinet; or
 2. A finding substantiated by the cabinet that the assisted-living community delivered a health service.
- (3) No business shall market its service as an assisted-living community unless it has:
 - (a) Filed a current application for the business to be certified by the department as an assisted-living community; or
 - (b) Received certification by the department as an assisted-living community.
- (4) No business that has been denied or had its certification revoked shall operate or market its service as an assisted-living community unless it has:
 - (a) Filed a current application for the business to be certified by the department as an assisted-living community; and
 - (b) Received certification as an assisted-living community from the department. Revocation of certification may be grounds for the department to not reissue certification for one (1) year if ownership remains substantially the same.
- (5) No business shall operate as an assisted-living community unless its owner or manager has:
 - (a) Filed a current application for the business to be certified as an assisted-living community by the department; and
 - (b) Received certification as an assisted-living community from the department.
- (6) By September 1 of each year, each assisted-living community certified pursuant to this chapter may provide residents with educational information or education opportunities on influenza disease.
- (7) The department shall determine the feasibility of recognizing accreditation by other organizations in lieu of certification from the department.
- (8) Individuals designated by the department to conduct certification reviews shall have the skills, training, experience, and ongoing education to perform certification reviews.
- (9) ***The cabinet may promulgate administrative regulations to establish an assisted-living community certification fee that shall not exceed costs of the program to the cabinet, to be assessed*** upon receipt of an application for certification~~, the department shall assess an assisted living community certification fee in the amount of twenty dollars (\$20) per living unit that in the aggregate for each assisted living community is no less than three hundred dollars (\$300) and no more than one thousand six hundred dollars (\$1,600)].~~ The department shall submit a breakdown of fees assessed and costs incurred for conducting certification reviews upon request.

- (10) The department shall make findings from certification reviews conducted during the prior twelve (12) months available to any interested person.
- (11) Notwithstanding any provision of law to the contrary, the department may request any additional information from an assisted-living community or conduct additional on-site visits to ensure compliance with the provisions of KRS 194A.700 to 194A.729.
- (12) Failure to follow an assisted-living community's policies, practices, and procedures shall not result in a finding of noncompliance unless the assisted-living community is out of compliance with a related requirement under KRS 194A.700 to 194A.729.

➔Section 3. KRS 194A.729 is amended to read as follows:

If a person or business seeks financing for an assisted-living community project, the department shall provide written correspondence to the lender, upon request, to denote whether the architectural drawings and lease agreement conditionally comply with the provisions of KRS 194A.700 to 194A.729. The department may ***promulgate administrative regulations to establish a fee that shall not exceed costs of the program to the cabinet, to be charged for the written correspondence to the lender***~~[charge a fee of no more than two hundred fifty dollars (\$250) for the written correspondence to the lender].~~

➔Section 4. KRS 199.640 is amended to read as follows:

- (1) Any facility or agency seeking to conduct, operate, or maintain any child-caring facility or child-placing agency shall first obtain a license to conduct, operate, or maintain the facility or agency from the cabinet.
- (2) The cabinet shall:
 - (a) Develop standards, as provided in subsection (5) of this section, which must be met by any facility or agency seeking to be licensed to conduct, operate, or maintain a child-caring facility or child-placing agency;
 - (b) Issue licenses to any facility or agency found to meet established standards and revoke or suspend a license after a hearing in any case that a facility or agency holding a license is determined to have substantially failed to conform to the requirements of the standards;
 - (c) Establish and follow procedures designed to insure that any facility or agency licensed to conduct, operate, or maintain a child-caring facility or child-placing agency complies with the requirements of the standards on an ongoing basis.
- (3) Licenses shall be issued for a period of one (1) year from date of issue unless revoked by the cabinet. Each licensed facility or agency shall be visited and inspected at least one (1) time each year by a person authorized by the cabinet and meeting specific qualifications established by the secretary of the cabinet in an administrative regulation. A complete report of the visit and inspection shall be filed with the cabinet.
- (4) Each license issued shall specify the type of care or service the licensee is authorized to perform. ***The cabinet may promulgate administrative regulations to establish fees that shall not exceed costs of the program to the cabinet, for the proper administration of licensure***~~[Each initial application for a license shall be accompanied by a fee of one hundred dollars (\$100) and shall, except for provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of fifty dollars (\$50)].~~ The fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of said account shall lapse to the general fund at the end of each biennium.
- (5) (a) The secretary shall promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies relating to the health and safety of all children in the care of the facility or agency, the basic components for a quality program, as referenced below, and any other factors as may be necessary to promote the welfare of children cared for or placed by the agencies and facilities. Standards established may vary depending on the capacity of the agency or facility seeking licensure. These administrative regulations shall establish standards that insure that:
 1. The treatment program offered by the facility or agency is directed toward child safety, improved child functioning, improved family functioning, and continuity and permanence for the child;
 2. The facility or agency has on staff, or has contracted with, individuals who are qualified to meet the treatment needs of the children being served, including their psychological and psychiatric needs;

3. The facility or agency has procedures in place to insure that its staff receives ongoing training and that all staff members who are required to do so meet all regional and national standards;
 4. The facility or agency develops an integrated, outcomes-based treatment plan that meets the health, mental health, education, safety, and security needs of each child in its care;
 5. The facility or agency has procedures in place to include parents, family, and other caregivers in a child's treatment program;
 6. The facility or agency has procedures in place whereby it evaluates its programs on a quarterly basis and documents changes in the program if the results of the review indicate a change is needed;
 7. The facility or agency makes available quality programs for substance abuse prevention and treatment with providers licensed under KRS Chapter 222 as part of its treatment services;
 8. The facility or agency initiates discharge planning at admission and provides sufficient aftercare; and
 9. The facility or agency has procedures in place that outline the structure and objectives of cooperative relationships with the community within which it is located and the local school district.
- (b) The secretary shall promulgate *administrative* regulations establishing recordkeeping and reporting requirements and standards for licensed agencies and facilities that recognize the electronic storage and retrieval of information for those facilities that possess the necessary technology and that include, at a minimum, the following information relating to children in the care of the agency or facility:
1. The name, age, social security number, county of origin, and all former residences of the child;
 2. The names, residences, and occupations, if available, of the child's parents;
 3. The date on which the child was received by the agency or facility; the date on which the child was placed in a foster home or made available for adoption; and the name, occupation, and residence of any person with whom a child is placed; and
 4. A brief and continuing written narrative history of each child covering the period during which the child is in the care of the agency or facility.
- (c) The secretary may promulgate administrative regulations creating separate licensure standards for different types of facilities.
- (d) The secretary shall promulgate administrative regulations to establish practices and procedures for the inspection of child-caring facilities and child-placing agencies. These administrative regulations shall establish a uniform reporting mechanism that includes guidelines for enforcement.
- (6) Any administrative regulations promulgated pursuant to KRS Chapter 13A to govern services provided by church-related privately operated child-caring agencies or facilities shall not prohibit the use of reasonable corporal physical discipline which complies with the provisions of KRS 503.110(1), including the use of spanking or paddling, as a means of punishment, discipline, or behavior modification and shall prohibit the employment of persons convicted of any sexual offense with any child-caring facility or child-placing agency.
- (7) All records regarding children or facts learned about children and their parents and relatives by any licensed agency or facility shall be deemed confidential in the same manner and subject to the same provisions as similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection except to authorized employees of the cabinet or of such licensed agency or facility in performance of their duties.
- ➔Section 5. KRS 199.896 is amended to read as follows:
- (1) No person, association, or organization shall conduct, operate, maintain, or advertise any child-care center without obtaining a license as provided in KRS 199.892 to 199.896.
 - (2) The ~~cabinet~~~~secretary~~ may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for a child-care center, criteria for the denial of a license if criminal records indicate convictions that may impact the safety and security of children in care, and procedures for enforcement of penalties.

- (3) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee *that shall not exceed administrative costs of the program to the cabinet*~~of not more than fifty dollars (\$50)~~ and shall be renewable annually upon expiration and reapplication when accompanied by a *renewal fee that shall not exceed administrative costs of the program to the cabinet*~~fee of twenty-five dollars (\$25)~~. Regular licenses and renewals thereof shall expire one (1) year from their effective date.
- (4) No child-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.
- (5) If, upon inspection or investigation, the inspector general finds that a child-care center licensed under this section has violated the administrative regulations, standards, or requirements of the cabinet, the inspector general shall issue a statement of deficiency to the center containing:
 - (a) A statement of fact;
 - (b) A statement of how an administrative regulation, standard, or requirement of the cabinet was violated; and
 - (c) The timeframe, negotiated with the child-care center, within which a violation is to be corrected, except that a violation that poses an immediate threat to the health, safety, or welfare of children in the center shall be corrected in no event later than five (5) working days from the date of the statement of deficiency.
- (6) The Cabinet for Health and Family Services, in consultation with the Office of the Inspector General, shall establish by administrative regulations promulgated in accordance with KRS Chapter 13A an informal dispute resolution process containing at least two (2) separate levels of review through which a child-care provider may dispute licensure deficiencies that have an adverse effect on the child-care provider's license.
- (7) A child-care center shall have the right to appeal to the Cabinet for Health and Family Services under KRS Chapter 13B any action adverse to its license or the assessment of a civil penalty issued by the inspector general as the result of a violation contained in a statement of deficiency within twenty (20) days of the issuance of the action or assessment of the civil penalty. An appeal shall not act to stay the correction of a violation.
- (8) In assessing the civil penalty to be levied against a child-care center for a violation contained in a statement of deficiency issued under this section, the inspector general or the inspector general's designee shall take into consideration the following factors:
 - (a) The gravity of the threat to the health, safety, or welfare of children posed by the violation;
 - (b) The number and type of previous violations of the child-care center;
 - (c) The reasonable diligence exercised by the child-care center and efforts to correct the violation; and
 - (d) The amount of assessment necessary to assure immediate and continued compliance.
- (9) Upon a child-care center's failure to take action to correct a violation of the administrative regulations, standards, or requirements of the cabinet contained in a statement of deficiency, or at any time when the operation of a child-care center poses an immediate threat to the health, safety, or welfare of children in the center, and the child-care center continues to operate after the cabinet has taken emergency action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee shall take at least one (1) of the following actions against the center:
 - (a) Institute proceedings to obtain an order compelling compliance with the administrative regulations, standards, and requirements of the cabinet;
 - (b) Institute injunctive proceedings in Circuit Court to terminate the operation of the center;
 - (c) Institute action to discontinue payment of child-care subsidies; or
 - (d) Suspend or revoke the license or impose other penalties provided by law.

- (10) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of child-care center license of the operator. Identifying information regarding children and their families shall remain confidential.
- (11) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the child-care center within the past year. All information distributed by the cabinet under this subsection shall include a statement indicating that the reports as provided under this subsection from the past five (5) years are available from the child-care center upon the parent's, custodian's, guardian's, or other interested person's request.
- (12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and certification applications shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated for the use of the cabinet. The balance of the special fund shall lapse to the general fund at the end of each biennium.
- (13) Any advertisement for child-care services shall include the address of where the service is being provided.
- (14) All inspections of licensed and unlicensed child-care centers by the Cabinet for Health and Family Services shall be unannounced.
- (15) All employees and owners of a child-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:
 - (a) Basic health, safety, and sanitation;
 - (b) Recognizing and reporting child abuse; and
 - (c) Developmentally appropriate child-care practice.
- (16) All employees and owners of a child-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development. These hours shall include but are not limited to one and one-half (1.5) hours one (1) time every five (5) years of continuing education in the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020. Training in recognizing pediatric abusive head trauma may be designed in collaboration with organizations and agencies that specialize in the prevention and recognition of pediatric head trauma approved by the secretary of the Cabinet for Health and Family Services. The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours.
- (17) The Cabinet for Health and Family Services shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (15) of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (15) of this section.
- (18) Child-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.
- (19) Child-care centers that provide instructional and educational programs for preschool-aged children that operate for a maximum of twenty (20) hours per week and which a child attends for no more than fifteen (15) hours per week shall:
 - (a) Notify the cabinet in writing that the center is operating;
 - (b) Meet all child-care center licensure requirements and administrative regulations related to employee background checks;
 - (c) Meet all child-care center licensure requirements and administrative regulations related to tuberculosis screenings; and
 - (d) Be exempt from all other child-care center licensure requirements and administrative regulations.

- (20) Child-care centers that provide instructional and educational programs for preschool-aged children that operate for a maximum of twenty (20) hours per week and which a child attends for no more than ten (10) hours per week shall be exempt from all child-care licensure requirements and administrative regulations.
- (21) Directors and employees of child-care centers in a position that involves supervisory or disciplinary power over a minor, or direct contact with a minor, shall submit to a criminal record check in accordance with KRS 199.8965.
- (22) A director or employee of a child-care center may be employed on a probationary status pending receipt of the criminal background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

➔Section 6. KRS 199.8982 is amended to read as follows:

- (1) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall not have been found by the cabinet or a court to have abused or neglected a child, and shall meet the following minimum requirements:
 - 1. Submit two (2) written character references;
 - 2. Provide a written statement from a physician or advanced practice registered nurse that the applicant is in good health;
 - 3. Submit to a criminal record check in accordance with KRS 199.8965;
 - 4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;
 - 5. Provide a copy of the results of a tuberculosis risk assessment and the results of any appropriate follow-up with skin testing or chest X-ray for applicants who are determined to be at risk for developing tuberculosis in accordance with the recommendations of the Centers for Disease Control and Prevention within thirty (30) days of the date of application for certification; and
 - 6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:
 - a. Basic health, safety, and sanitation;
 - b. Recognizing and reporting child abuse; and
 - c. Developmentally appropriate child-care practice.
- (b) Initial applications for certification shall be made to the department~~and shall be accompanied by a ten dollar (\$10) certification fee~~. ***The cabinet may promulgate administrative regulations to establish fees that shall not exceed costs of the program to the cabinet, for proper administration of the certification.*** The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee ***that shall not exceed costs of the program to the cabinet for renewal***~~of ten dollars (\$10)~~.
- (c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.
- (d) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the family child-care provider. Identifying information regarding children and their families shall remain confidential.
- (e) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the family child-care home within the past year. All information distributed by the cabinet under this paragraph shall include a statement indicating that the reports as provided under this

paragraph from the past five (5) years are available from the family child-care home upon the parent's, custodian's, guardian's, or other interested person's request.

- (f) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A which establish standards for the issuance, monitoring, release of information under this section and KRS 199.896 and 199.898, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home and establish criteria for the denial of certification if criminal records indicate convictions that may impact the safety and security of children in care. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:
 - 1. Certification requirements and procedures;
 - 2. Information about available child-care training; and
 - 3. Child-care food sponsoring organizations.
- (2) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development. These hours shall include but are not limited to one and one-half (1.5) hours one (1) time every five (5) years of continuing education in the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020. Training in recognizing pediatric abusive head trauma may be designed in collaboration with organizations and agencies that specialize in the prevention and recognition of pediatric abusive head trauma approved by the secretary of the Cabinet for Health and Family Services. The one and one-half (1.5) hours of continuing education required under this section shall be included in the current number of required continuing education hours.
- (3) The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (1)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (1)(a)6. of this section.

➔Section 7. KRS 211.180 is amended to read as follows:

- (1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for Health and Family Services for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and **comprehensive** programs relating to all matters of public health, including but not limited to the following matters:
 - (a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;
 - (b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control and Prevention of the United States Public Health Service. No later than October 1, 2004, the cabinet shall require reporting of cases of human immunodeficiency virus infection by reporting of the name and other relevant data as requested by the Centers for Disease Control and Prevention and as further specified in KRS 214.645. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient;

- (c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;
 - (d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;
 - (e) Protection and improvement of the health of expectant mothers, infants, preschool, and school-age children;
 - (f) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; and
 - (g) Protection and improvement of the health of the people through better nutrition.
- (2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed ***costs of the program to the cabinet to cover inspector hours and but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year,*** ~~travel fees—~~ ~~twenty dollars (\$20) per inspector hour plus~~ pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.
- (3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

➔Section 8. KRS 211.357 is amended to read as follows:

- (1) The cabinet shall establish a program to certify persons as installers of on-site sewage disposal systems. A master plumber licensed pursuant to KRS Chapter 318 or a person who provides written verification from the local health department in the county in which the work was completed that he installed five (5) lateral fields and septic tank systems prior to July 13, 1984, and that these installations had been inspected by a certified inspector and passed inspection, shall be certified automatically.
- (2) The cabinet shall establish as a part of the certification program referenced in subsection (1) of this section a means of issuing a probationary certification for installers of on-site sewage disposal systems. This probationary certification shall automatically be converted to a full certification at the time that the holder of the probationary certificate has installed five (5) lateral fields and septic tank systems and has provided written verification from the local health department in the county in which the work was completed that these installations have been inspected by a certified inspector and passed the inspection. The cabinet shall issue a full certificate to the holder of the probationary certificate no later than sixty (60) days after receipt of verification. In order to be issued a probationary certification, eligible persons shall certify in writing that they will make installations in accordance with requirements set forth by the Cabinet for Health and Family Services.
- (3) ***The cabinet may promulgate administrative regulations to establish a fee that shall not exceed administrative costs to the cabinet but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year, that shall be paid by persons certified as installers, except master plumbers licensed pursuant to KRS Chapter 318,*** ~~shall pay a reasonable fee of not more than twenty five dollars (\$25) for certification~~.
- (4) The cabinet may revoke or suspend any certification issued pursuant to this section upon proof that the certified person has:
 - (a) Knowingly violated the provisions of this chapter or the regulations of the cabinet;

- (b) Practiced fraud or deception in applying for or obtaining a certificate;
 - (c) Is incompetent to install on-site sewage disposal systems;
 - (d) Permitted the certification to be used directly or indirectly by another to install on-site sewage disposal systems; or
 - (e) Is guilty of other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.
- (5) Upon appeal of any decision to revoke or suspend a certification, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (6) Nothing in this section shall be construed to condone the installation of on-site sewage disposal systems contrary to specifications for these systems established by the cabinet.

➔Section 9. KRS 211.760 is amended to read as follows:

- (1) As used in this section:
- (a) "Body piercing" means the act of penetrating the skin or body part of a human being to make a hole, mark, or scar;
 - (b) "Facility" means the place of business where tattooing, body piercing, or both are conducted; and
 - (c) "Tattooing" means the act of producing scars on a human being or the act of inserting pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce indelible marks or figures visible through the skin, including the application of permanent makeup.
- (2) No person shall engage in, offer to engage in, or carry on any business of tattooing, body piercing, or both of humans by nonmedical personnel for remuneration within the Commonwealth of Kentucky without first registering with the local health department in the district or county in which the person is to perform tattooing, body piercing, or both. Registrations shall be valid for one (1) year. Applicants for registration shall pay a fee ***that shall not exceed administrative costs of the program to the cabinet, [of twenty dollars (\$20)]*** to the local or district health department.
- (3) The Cabinet for Health and Family Services shall promulgate administrative regulations relating to:
- (a) Health and cleanliness of places of business in which tattooing, body piercing, or both are conducted;
 - (b) Sterilization of tattooing and body piercing apparatus;
 - (c) Procedures to prevent the spread of disease or infection during or relating to tattooing and body piercing procedures;
 - (d) Procedures to prevent any tattooing or body piercing of minors without the written notarized consent of a custodial parent or legal guardian; and
 - (e) Such other administrative regulations as may be necessary to protect public health or properly administer the program requirements of this section, ***including application and licensing fees.***
- (4) Representatives of the cabinet or local or district health departments may visit a facility at any time during business hours to ensure compliance with the requirements of this section. Representatives of local or district health departments shall visit each registered facility in their county or district not less than twice each year.
- (5) Any administrative hearing conducted under this section shall be conducted in accordance with KRS Chapter 13B.

➔Section 10. KRS 211.976 is amended to read as follows:

- (1) All persons proposing to engage in business for the purposes of this chapter shall file an application for licensing on forms provided by the cabinet with information specifying that waste hauling is restricted to household sewage or sludge only; commercial or industrial sanitary sewage or sludge only; grease trap sewage or sludge only; or combinations of the above. Other information deemed necessary, as well as the required fee, shall accompany the application. The secretary may ***promulgate administrative regulations to establish a fee schedule that shall not exceed the costs to the cabinet but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year***~~[establish a fee schedule according to authorization in the state budget document].~~

- (2) If the cabinet, after any investigation it deems necessary, finds that the applicant has the qualifications, experience, reputation, and approved site for disposal necessary to perform the service in an acceptable manner and not detrimental to the environment or to public health, it shall issue or cause to be issued a license for the said business. This license is not transferable. The application for license shall be made to the cabinet prior to March 1 of each year, and shall be accompanied by a surety bond tendered by a company registered in the Commonwealth of Kentucky, to indemnify persons for whom service and maintenance work is performed, if faulty, and to guarantee disposal of sewage sludge in an approved manner; or with sureties, form and sufficiency acceptable to the cabinet. ***The amount of the bond shall be established by administrative regulation promulgated by the cabinet.*** ~~Bonds shall be in the amount of two thousand dollars (\$2,000).~~ The cabinet shall be the obligee, and the bond shall be for the benefit and purpose to protect all persons and the environment damaged by faulty workmanship in the servicing or maintaining of sewage pretreatment units, grease traps, or holding tanks, or in the disposal of sewage sludge, and shall guarantee the appearance of the licensee to answer any summons within thirty (30) days of notice to the bonding company of the issuance of summons. Bonds shall be conditioned upon the performance of the services in a workmanlike manner, and in a manner which will not create a public health hazard nor damage the environment.

➔Section 11. KRS 213.141 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars (\$5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.
- (2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ten dollars (\$10) to be paid for a certified copy of a record of a birth:
 - (a) Three dollars (\$3) of which shall be used by the Cabinet for Health and Family Services for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children; and
 - (b) One dollar (\$1) of which shall be used by the Division of Maternal and Child Health to pay for therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified foods for all inborn errors of metabolism and genetic conditions if:
 1. The therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified food products are medically indicated for the therapeutic treatment of inborn errors of metabolism or genetic conditions and are administered under the direction of a physician; and
 2. The affected person's therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein foods are not covered under any public or private health benefit plan.
- (3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.
- (4)
 - (a) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.
 - (b) No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a member of the Kentucky National Guard who has received deployment orders during the sixty (60) days prior to the furnishing of the certificate.
 - (c) ***No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a child who is in the custody of or committed to the cabinet, including a child who has extended commitment to the cabinet in accordance with KRS 610.110(6).***
- (5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

➔Section 12. KRS 217.125 is amended to read as follows:

- (1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for Health and Family Services.
- (2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application for the permit to operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall ***promulgate administrative regulations to establish a fee schedule not to exceed costs of the program to the cabinet***~~according to authorization in the state budget document~~. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.
- (3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.
- (4) Except as otherwise provided in subsection (11) of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall ***promulgate administrative regulations to establish a fee schedule not to exceed costs to the cabinet but in no event shall the total fees for permitting and inspection increase more than five percent (5%) per year***~~according to authorization in the state budget document~~.
- (5) Except as otherwise provided in subsection (11) of this section, each application for a farmers market temporary food service establishment shall be accompanied by the required fee of at least fifty dollars (\$50). The secretary shall establish a fee schedule by promulgation of administrative regulation. Fees collected by the cabinet shall be used to carry out duties related to farmers market temporary food service establishments, including but not limited to inspections and the issuance of permits.
- (6) An applicant for a permit to operate a farmers market temporary food service establishment must provide documentation of successful completion of a food safety training program offered by either the state, a local health department, or other entity approved by the cabinet to conduct food safety training. Each certification of food safety training shall expire after a period of twenty-four (24) months from the date of issuance. Permits issued shall be posted in a conspicuous place in the establishment, and a person who has completed the food safety training for farmers market temporary food service establishments shall be present at all times during the operation of the establishment.
- (7) Upon expiration of a temporary food service establishment permit, any subsequent permits shall not be issued to the same operator to operate at the same location until a period of thirty (30) days has elapsed.
- (8) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.
- (9) Permits shall not be issued to operate a temporary food service establishment and a farmers market temporary food service establishment simultaneously at the same location and by the same operator.
- (10) In all instances of permit issuance for either a temporary food service establishment permit or a farmers market temporary food service establishment permit, any subsequent permits shall not be issued until a period of thirty (30) days has elapsed.
- (11) Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade, charitable food kitchens, and all facilities operated by the Cabinet for Health and Family Services or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code. For this subsection, the term "charitable food

kitchens" means a not-for-profit, benevolent food service establishment where more than one-half (1/2) of the employees are volunteers.

- (12) Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection (11) of this section, and if the establishment is in compliance with KRS 217.005 to 217.215 and regulations of the cabinet.
- (13) Each permit to operate a food processing establishment, food storage warehouse, salvage distributor, salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

➔Section 13. KRS 217.811 is amended to read as follows:

The cabinet shall promulgate administrative regulations to establish a fee not to exceed the costs to the cabinet of the program, but in no event shall an increase be more than five percent (5%) per year, that shall be paid with each application for permit to operate a vending machine company [shall be accompanied by a fee of ten dollars (\$10)] for each vending machine commissary plus a fee for the total number of vending machines operated by the applicant, as follows:

1- 25 machines	fee \$ 50
26- 50 machines	fee \$ 75
51- 100 machines	fee \$100
101- 150 machines	fee \$125
151 and over machines	fee \$200

~~Provided, that~~ Vending machines dispensing only bottled or canned soft drinks; prepackaged nonpotentially hazardous food; chewing gum, nuts, and/or candies shall be exempt from the permit and fee requirements of KRS 217.808 to 217.812.

➔Section 14. KRS 217.924 is amended to read as follows:

- (1) A tanning facility shall give each customer a written statement pursuant to 21 C.F.R. 1040.20. The written statement shall include warnings stating that:
 - (a) Failure to use eye protection provided to the customer by the tanning facility may result in damage to the eyes;
 - (b) Overexposure to ultraviolet light causes burns;
 - (c) Repeated exposure may result in premature aging of the skin and skin cancer;
 - (d) Abnormal skin sensitivity or burning may be caused by reactions of the following to ultraviolet light:
 1. Food;
 2. Cosmetics; or
 3. Medications, including but not limited to:
 - a. Tranquilizers;
 - b. Diuretics;
 - c. Antibiotics;
 - d. High blood pressure medicines; or
 - e. Birth control pills;
 - (e) Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.
- (2) Each tanning facility shall:

- (a) Maintain the written or electronic consent forms of the parents or guardians for a period of not less than two (2) years, and make the forms available to cabinet personnel for inspection upon request; and
 - (b) Make written or electronic records showing the dates and duration of use of a tanning device at the tanning facility by children fourteen (14) years of age to eighteen (18) years of age, maintain those records for a period of not less than two (2) years, and make the records available for cabinet or health department personnel for inspection upon request.
- (3) ~~Before July 1, 2007, }~~All indoor tanning facilities shall register with the local health department in the district or county in which the facility is operating. Registration shall be valid for one (1) year and applicants shall pay a fee ***that shall not exceed administrative costs of the program,*** ~~of twenty dollars (\$20) }~~ to the district or county health department.

➔Section 15. KRS 219.021 is amended to read as follows:

- (1) No person shall operate a hotel without first having obtained a permit to operate from the cabinet. An application for a permit to operate any hotel shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet requires.
- (2) ***The cabinet shall promulgate administrative regulations to establish a fee not to exceed administrative costs of the program to the cabinet, that shall be paid with each application for an annual permit and permit renewal to operate a hotel*** ~~shall be accompanied by a fee of twenty five dollars (\$25) }~~.
- (3) Upon receipt of an application for a permit to operate a hotel accompanied by the required fee, the cabinet shall issue a permit if the hotel meets the requirements of KRS 219.011 to 219.081 and ***administrative regulations promulgated*** ~~regulations adopted~~ by the cabinet. Hotels holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 219.011 to 219.081 and the ***administrative regulations promulgated by the cabinet*** ~~regulations adopted pursuant thereto~~, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner and if there is no change in ownership of the establishment.
- (4) Each annual permit to operate a hotel, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee ~~of twenty five dollars (\$25) }~~, provided the hotel is in compliance with KRS 219.011 to 219.081 and ***administrative regulations promulgated by*** ~~regulations of~~ the cabinet.
- (5) Each permit to operate a hotel shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the hotel.

➔Section 16. KRS 219.340 is amended to read as follows:

- (1) ***The cabinet shall promulgate administrative regulations to establish a schedule of fees not to exceed administrative costs of the program to the cabinet, that shall be paid*** ~~the fee~~ for a permit to operate a manufactured or mobile home community ~~shall be assessed according to the following fee schedule:~~

Number of Spaces	Initial Fee	Maximum Fee
10 spaces or less	\$50.00	\$50.00
11 - 50 spaces	\$150.00	\$185.00
51 - 100 spaces	\$160.00	\$195.00
101 - 200 spaces	\$170.00	\$225.00
201 or more spaces	\$180.00	\$250.00

~~The cabinet may, by administrative regulation, beginning July 1, 2003, increase the annual fee to operate a manufactured or mobile home community by not more than five percent (5%) per year, not to exceed the maximum fee on the fee schedule. Upon receipt of an application for a permit to operate, accompanied by a permit fee, the cabinet shall issue a permit, provided the community meets the standards and requirements of KRS 219.310 to 219.410 and the ***administrative regulations promulgated by the cabinet*** ~~regulations adopted by the secretary~~.~~

- (2) Each permit to operate, unless sooner suspended or revoked, shall expire on June 30 following its issuance, and be renewable annually, upon application and payment of a renewal fee established by the cabinet, provided the community is maintained and operated in compliance with KRS 219.310 to 219.410 and the administrative regulations ***promulgated by the cabinet*** ~~adopted by the secretary~~.

- (3) Each permit to operate shall be issued only for the person and premises, including number of spaces, named in the application and shall not be transferable.
- (4) The person holding an operating permit shall post it conspicuously within the community or have it readily available for examination upon request by agents of the cabinet or prospective community occupants.

➔Section 17. KRS 221.020 is amended to read as follows:

- (1) Each frozen food locker plant or branch frozen food locker plant operated in this state shall be licensed under and subject to the provisions of KRS 221.010 to 221.100.
- (2) ***The cabinet shall promulgate administrative regulations to establish a fee not to exceed administrative costs of the program to the cabinet, that shall be paid*** ~~{There shall be paid to the secretary}~~ with each application for a refrigerated locker license or for ***annual license*** renewal ~~{of such license an annual license fee of ten dollars (\$10)}~~ and the funds therefrom shall be disbursed by the ***cabinet*** ~~{secretary}~~ for the enforcement of KRS 221.010 to 221.100.
- (3) Each such license shall expire on December 31 following its date of issue, unless sooner revoked for cause. Renewal may be obtained annually by surrendering to the ***cabinet*** ~~{secretary}~~ the old license certificate and paying the required annual license fee. ~~The {Such}~~ license fee shall not be transferable to any person nor be applicable to any location other than that for which originally issued.

➔Section 18. KRS 258.043 is amended to read as follows:

- (1) A local health department may sponsor mass rabies immunization clinics and shall contract with local veterinarians to administer the rabies vaccine. If the services of veterinarians are not available in the area, the local health department may contract with other veterinarians. ***The cabinet shall promulgate administrative regulations to establish a reasonable fee, not to exceed administrative costs of the program,*** to be charged to the owner of each dog, cat, or ferret ~~{shall be determined by the local health department, not to exceed five dollars (\$5),}~~ to help defray the cost of the clinic.
- (2) No owner shall be required to have his dog, cat, or ferret vaccinated at a public clinic if he elects to have his dog, cat, or ferret vaccinated privately by a veterinarian of his choice.
- (3) No owner shall be required to have his dog vaccinated at a public clinic if he is a qualified person and elects to vaccinate his dog himself.

➔Section 19. KRS 333.070 is amended to read as follows:

A medical laboratory license shall be valid for the calendar year for which it is issued. ***The cabinet shall promulgate administrative regulations to establish fees, not to exceed the administrative costs to the program, for*** the initial application ~~{fee}~~ ***and license renewal*** ~~{shall be one hundred dollars (\$100)}~~. The license shall be renewable upon expiration and reapplication accompanied by the annual renewal fee ~~{to be paid according to the reasonable fee schedule established by regulations of the secretary; provided, however, that no fee shall exceed fifty dollars (\$50)}~~. Fees collected by the ***cabinet*** ~~{secretary}~~ shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this chapter. The balance of said account shall lapse to the general fund at the end of each biennium.

➔Section 20. This Act takes effect July 1, 2019.

Signed by Governor April 10, 2018.

CHAPTER 137

(HB 434)

AN ACT relating to the Kentucky Educational Savings Plan Trust.

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

➔Section 1. KRS 164A.305 is amended to read as follows:

As used in KRS 164A.300 to 164A.380, except where the context clearly requires another interpretation:

- (1) "Act" means the Kentucky Educational Savings Plan Trust Act codified at KRS 164A.300 to 164A.380;
- (2) "Administrative fund" means the funds used to administer the Kentucky Educational Savings Plan Trust;
- (3) "Beneficiary" means:
 - (a) Any person designated at the commencement of participation by a participation agreement to benefit from payments for ~~higher~~ education costs at an **educational** institution ~~[of higher education]~~;
 - (b) The new beneficiary, in the case of a change of beneficiaries pursuant to KRS 164A.330(4); or
 - (c) The scholarship recipient, in the case of a participation agreement entered into as part of a scholarship program operated by a state or local government organization or an organization described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. sec. 501(c)(3), that is exempt from federal income taxation pursuant to Section 501(a) of that code;
- (4) "Benefits" means the payment of ~~higher~~ education costs on behalf of a beneficiary by the savings plan trust during the beneficiary's attendance at an **educational** institution ~~[of higher education]~~;
- (5) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority;
- (6) **"Educational institution" means an eligible educational institution under 26 U.S.C. sec. 529(e)(5) or an elementary or secondary public, private, or religious school** ~~["Higher education costs" means the costs specified in section 529(e)(3) of the Internal Revenue Code of 1986 as amended for attendance at an institution of higher education as determined and certified by the institution of higher education in the same manner as prescribed in Title IV of the Higher Education Act of 1965, 20 U.S.C. sec. 1087II, as amended];~~
- (7) "Institution of higher education" means an institution as defined in Section 529(e)(5) of the Internal Revenue Code of 1986, as amended;
- (8) "Kentucky Educational Savings Plan Trust" or "savings plan trust" means the trust created pursuant to KRS 164A.310;
- (9) "Participant" means an organization described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. sec. 501(c)(3), that is exempt from federal income taxation pursuant to Section 501(a) of that code, an individual, firm, corporation, a state or local government organization, or a legal representative of any of the foregoing who has entered into a participation agreement pursuant to KRS 164A.300 to 164A.380 for the advance payment of **educational** ~~[higher education]~~ costs on behalf of a beneficiary;
- (10) "Participation agreement" means an agreement between a participant and the savings plan trust, pursuant to and conforming with the requirements of KRS 164A.300 to 164A.380;
- (11) "Program administrator" means the administrator of the savings plan trust appointed by the board to administer and manage the trust;
- (12) "Program fund" means the program fund established by KRS 164A.335 which shall be held as a separate fund within the savings plan trust;
- (13) **"Qualified educational expenses" means:**
 - (a) **With regard to higher education expenses, the costs specified in 26 U.S.C. sec. 529(e)(3) for attendance at an institution of higher education; and**
 - (b) **With regard to elementary and secondary education expenses, tuition of up to ten thousand dollars (\$10,000) per year in connection with enrollment or attendance at an elementary or secondary public, private, or religious school;**
- (14) "Tuition" means the quarterly or semester charges imposed to attend an **educational institution** ~~[institution of higher education]~~ and required as a condition of enrollment; **and**
- (15) ~~(14)~~ "Vested participation agreement" means a participation agreement which has been in full force and effect during eight (8) continuous years of residency of the beneficiary in the Commonwealth while participating in the savings plan trust.

➔Section 2. KRS 164A.310 is amended to read as follows:

There is hereby created an instrumentality of the Commonwealth to be known as the Kentucky Educational Savings Plan Trust. The board, in the capacity of trustee, shall have the power and authority to:

- (1) Sue and be sued;

- (2) Make and enter into contracts necessary for the administration of the savings plan trust pursuant to KRS 164A.300 to 164A.380;
- (3) Adopt a corporate seal and to change and amend it from time to time;
- (4) Invest moneys within the program fund in any investments determined by the board to be appropriate, notwithstanding any other statutory limitations contained in the Kentucky Revised Statutes, which are specifically determined to be inapplicable to the savings plan trust;
- (5) Enter into agreements with any ***educational institution***~~[institution of higher education]~~, the Commonwealth of Kentucky, or any federal or other state agency or other entity as required for the effectuation of its rights and duties pursuant to KRS 164A.300 to 164A.380;
- (6) Accept any grants, gifts, legislative appropriations, and other moneys from the Commonwealth, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the administrative fund or the program fund, which, in the case of any contributions from other than general funds of the Commonwealth, may be limited in application to definite classes of beneficiaries;
- (7) Enter into participation agreements with participants;
- (8) Make payments to ***an educational institution***~~[institutions of higher education]~~ pursuant to participation agreements on behalf of beneficiaries;
- (9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in KRS 164A.300 to 164A.380;
- (10) Appoint a program administrator and to determine the duties of the program administrator and other staff as necessary and fix their compensation within the provisions of KRS Chapter 18A;
- (11) Delegate to the program administrator general supervision and direction over the administrative function of the trust and its employees in carrying out the policies, programs, administrative regulations, and directives of the board;
- (12) Make provision for the payment of costs of administration and operation of the savings plan trust;
- (13) Carry out the duties and obligations of the savings plan trust pursuant to KRS 164A.300 to 164A.380 and to have any and all other powers as may be reasonably necessary for the effectuation of the purposes of the savings plan trust and KRS 164A.300 to 164A.380; and
- (14) Promulgate administrative regulations to implement the provisions of KRS 164A.300 to 164A.380 consistent with the federal Internal Revenue Code and administrative regulations issued pursuant to that code.

➔Section 3. KRS 164A.325 is amended to read as follows:

In addition to effectuating and carrying out all of the powers granted by KRS 164A.300 to 164A.380, the board, as trustee, shall have all powers necessary to carry out and effectuate the purposes, objectives, and provisions of KRS 164A.300 to 164A.380 pertaining to the savings plan trust, including, but not limited to, the power to:

- (1) Engage investment advisors to assist in the investment of savings plan trust assets;
- (2) Carry out studies and projections in order to advise participants regarding present and estimated future ~~higher~~ education costs and levels of financial participation in the trust required in order to enable participants to achieve their educational funding objectives;
- (3) Contract, in accordance with the provisions of KRS 45A.345 to 45A.460 under KRS 45A.343, for goods and services and engage personnel as necessary, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice, all of which contract obligations and services shall be payable from any moneys of the trust;
- (4) Participate in any other way in any federal, state, or local governmental program for the benefit of the savings plan trust;
- (5) Promulgate, impose, and collect administrative fees and charges in connection with transactions of the savings plan trust, and provide for reasonable service charges, including penalties for cancellations and late payments in respect of participation agreements;
- (6) Procure insurance against any loss in connection with the property, assets or activities of the savings plan trust;
- (7) Administer the funds of the savings plan trust;

- (8) Procure insurance indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the board; and
- (9) Promulgate reasonable rules and regulations for the administration of the savings plan trust.

➔Section 4. KRS 164A.330 is amended to read as follows:

The savings plan trust shall have the authority to enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and agreements:

- (1) Each participation agreement shall require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. Participation agreements may be amended to provide for adjusted levels of contributions based upon changed circumstances or changes in educational plans and may contain penalties for failure to make contributions when scheduled;
- (2) Notwithstanding the provisions of subsection (1) of this section, participants may elect to enter into a lump-sum contribution participation agreement in connection with which a single, lump-sum contribution is made by the participant for the benefit of a beneficiary;
- (3) Execution of a participation agreement by the trust shall not guarantee in any way that ***educational***~~higher education~~ costs will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will:
 - (a) Be admitted to an ***educational*** institution~~of higher education~~;
 - (b) ***Be allowed to continue attendance at the educational institution following admission***~~If admitted, be determined a resident for tuition purposes by the institution of higher education, unless the participation agreement is vested~~;
 - (c) ***Graduate from the educational institution***~~Be allowed to continue attendance at the institution of higher education following admission~~; or
 - (d) ***With regard to an institute of higher education, if admitted, be determined to be a resident for tuition purposes by the institution, unless the participation agreement is vested***~~Graduate from the institution of higher education~~;
- (4) Beneficiaries may be changed as permitted by the rules and regulations of the board upon written request of the participant provided, however, that the substitute beneficiary shall be eligible;
- (5) Participation agreements shall be freely amended throughout their terms in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters;
- (6) Each participation agreement shall provide that for vested participation agreements, the beneficiary shall be considered a resident of the Commonwealth for tuition purposes if the beneficiary enrolls in an institution of higher education in Kentucky;
- (7) Each participation agreement shall provide that it may be canceled under the terms and conditions, including payment of the fees and costs, set forth in the rules and regulations promulgated by the board;
- (8) The participation agreement shall ensure that contributions made pursuant to subsections (1) and (2) of this section shall not be made in real or personal property other than cash and shall not exceed the anticipated ~~higher~~ education costs of the beneficiary;
- (9) The participation agreement shall provide that the participant and the beneficiary shall not directly or indirectly or otherwise control the investment of contributions or earnings on contributions;
- (10) Information obtained from a participant or a beneficiary and other personally identifiable records made by the trust in the administration of this chapter shall not be published or be open for public inspection pursuant to KRS 61.870 to 61.884, except as provided below:
 - (a) Upon written request, a participant or beneficiary or his legal representative shall be entitled to be advised of the aggregate balance of contributions and earnings for all participation agreements that designate that same beneficiary;
 - (b) Information may be made available to public employees in the performance of their duties, but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released;

- (c) Statistical information derived from information and records obtained or made by the trust may be published, if it in no way reveals the identity of any participant or beneficiary; and
- (d) Nothing in this section shall preclude the program administrator or any employee of the board from testifying or introducing as evidence information or records obtained or made by the trust in any proceeding under this chapter, in an action to which the trust is a party, or upon order of a court.

➔Section 5. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

- (1) The trust shall exercise ownership of all contributions made under any participation agreement and all interest derived from the investment of the contributions made by the participant up to the date of utilization for payment of **educational**~~[higher education]~~ costs for the beneficiary. All contributions made under any participant agreement and interest derived from the investment of the contributions made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;
- (2) Any participant may cancel a participation agreement at any time, and terminate the trust's ownership rights thereby created in whole or in part, by delivering an instrument in writing signed and delivered to the program administrator or his designee. In the event the participation agreement is terminated in part, the trust shall retain ownership of all contributions made under the participation agreement not previously expended for the **qualified educational expenses**~~[higher education costs]~~ of the beneficiary and not returned to the participant. The participant shall retain a reversionary right to receive upon termination the actual market value of the participant's account at the time of the cancellation, including interest, except that the participant may be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection ~~(6)~~~~(8)~~ of this section;
- (3) ~~[Any participant may cancel a participation agreement and shall be permitted to transfer funds to the Commonwealth postsecondary education prepaid tuition trust fund established in KRS 164A.701, and in compliance with administrative regulations promulgated by the board for the savings plan trust;~~
- ~~(4) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant may be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;~~
- ~~(5) The **educational institution**~~[institution of higher education]~~ shall obtain ownership of the distributions made from the participant's account for the **qualified educational expenses**~~[higher education costs]~~ paid to the institution at the time each payment is made to the institution;~~
- ~~(4)~~~~(6)~~ Any amounts received by the trust pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section shall be owned by the trust;
- ~~(5)~~~~(7)~~ A participant may transfer the participant's rights to another eligible participant, including, but not limited to, a gift of the participant's rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be effected and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;
- ~~(6)~~~~(8)~~ Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's **qualified educational expenses**~~[higher education costs]~~, the board may charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:
 - (a) The death, permanent disability, or mental incapacity of the beneficiary; or
 - (b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26 U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and
- ~~(7)~~~~(9)~~ Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

➔Section 6. KRS 164A.370 is amended to read as follows:

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. Investment income earned on contributions paid by any participant and used for ***qualified educational expenses***~~[higher education costs]~~ defined in ***subsection (13) of Section 1 of this Act***~~[KRS 164A.305(6)]~~ or refunded under KRS 164A.350~~[(8)(a) or (b)]~~ shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the investment income was accrued being deemed and declared to be entirely public in nature. Earnings that are not used for ***qualified educational expenses***~~[higher education costs]~~ as defined in ***subsection (13) of Section 1 of this Act***~~[KRS 164A.305(6)]~~ and are refunded shall be subject to Kentucky income tax, except for earnings refunded pursuant to KRS 164A.350~~[(8)(a) or (b)]~~.

➔Section 7. The following KRS section is repealed:

164A.360 Borrowing from the trust.

Signed by Governor April 10, 2018.

CHAPTER 138

(HB 424)

AN ACT relating to the Kentucky 911 Services Board.

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

➔Section 1. KRS 65.7623 is amended to read as follows:

(1) There is hereby created the Kentucky 911 Services Board, the "board," consisting of ***seven (7) members as follows:***

- (a) ***The executive director of the Office of Homeland Security;***
- (b) ***The secretary of the Public Protection Cabinet;***
- (c) ***One (1) elected city official of a city government appointed by the Kentucky League of Cities;***
- (d) ***One (1) elected county official of a county government appointed by the Kentucky Association of Counties;***
- (e) ***One (1) director of a certified PSAP operated by a local government entity or a consolidated group of local government entities who previously served on the 911 Services Advisory Council and is not an elected official, to be appointed jointly by the Kentucky Association of Public-Safety Communications Officials and the Kentucky Emergency Number Association;***
- (f) ***One (1) member representative of a county or city government appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities or Kentucky Association of Counties. The Kentucky League of Cities and the Kentucky Association of Counties shall alternate in providing a list of names to the Governor every two (2) years, and the selected member representative shall serve for a two (2) year term and may be an elected city or county official; and***~~[fifteen (15) members, eleven (11) of whom shall be voting members appointed by the Governor, two (2) of whom shall be voting members who shall serve by virtue of their offices, and two (2) shall be nonvoting legislative members, as follows:]~~
- (g) ***One (1) member appointed by the Governor who***~~[Two (2) members]~~ ***shall be employed by or representative of the interest of CMRS providers. The member representing the interests of CMRS providers shall serve for a two (2) year term, and shall alternate between representing a Tier I provider and a Tier III provider***~~[, of which, one (1) shall be a representative of a Tier III CMRS provider; two (2) members serving as city officials, one (1) of which shall be an elected city official, from a list of four (4) nominees submitted by the Kentucky League of Cities; two (2) members serving as county officials, both of which shall be elected county officials, from a list of four (4) nominees submitted by the Kentucky Association of Counties; one (1) member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone~~

~~Association; one (1) member shall be a director of a certified public safety answering point operated by a local governmental entity or a consolidated group of local governmental entities appointed from lists of candidates submitted to the Governor by the Kentucky Firefighters Association, the State Association of Chiefs of Police, the Kentucky Sheriff's Association, and the Kentucky Ambulance Providers Association; two (2) members shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials; one (1) member shall be a director of a certified public safety answering point operated by a local government entity or a consolidated group of local governmental entities; and two (2) nonvoting legislative members to serve solely in advisory capacities for terms of two (2) years; one (1) of whom shall be a member of the House of Representatives to be appointed by the Speaker of the House of Representatives and one (1) of whom shall be a member of the Senate to be appointed by the President of the Senate. The commissioner of the Department of Kentucky State Police, or the commissioner's designee, and the executive director of the Office of Homeland Security, or the executive director's designee, also shall be voting members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment}.~~

- (2) ~~The [commissioner of the Department of Kentucky State Police and the]~~ executive director of the Office of Homeland Security *and secretary of the Public Protection Cabinet* shall serve by virtue of their offices. ~~The [other] members appointed under subsection (1)(c) to (e) of this section shall be appointed [nonlegislative members shall be appointed by the Governor] for a term of four (4) years and until their successors are appointed and qualified[, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years. Any member missing three (3) consecutive meetings may be removed by a majority vote of the remaining voting members]. Members appointed under subsection (1)(f) and (g) of this section shall serve for a term of two (2) years. Members appointed under subsection (1)(c) to (g) of this section may only serve as long as the appointee holds the office or position he or she held at the time of his or her appointment. Any vacancy on the board shall be filled in the same manner as the original appointment and shall be for the remainder of the unexpired term.~~
- (3) *No member of the board shall be held to be a public officer by reason of membership on the board. The elected city and county officials appointed under subsection (1) of this section shall each serve on the board in an ex officio voting capacity by virtue of their respective elected offices as long as they continue to occupy their local elected positions during their term as a board member. Their duties as members of the board shall be an extension of their duties as local elected officials and their service on the board shall not constitute the holding of a separate and distinct public office apart from their respective local elected positions.*
- (4) *The executive director of the Office of Homeland Security shall serve as chair and [board shall elect a chair from among its voting members to] preside over meetings of the board, which shall be conducted at least four (4) times each year. In the absence of the executive director of the Office of Homeland Security, the board may be chaired by any other member of the board selected by the remaining members.* The board shall be subject to the provisions of the Kentucky Open Meetings Act, KRS 61.805 to 61.850. The board shall establish a regular meeting schedule for each calendar year. The board shall hold at least two (2) meetings per calendar year in congressional districts other than the one in which Frankfort is located, and shall rotate its traveling meeting locations among the congressional districts before holding another traveling meeting in the same congressional district. A majority of the ~~[voting]~~ members appointed to the board shall constitute a quorum.
- ~~(5) [(4)]~~ In addition to the administrator appointed by the *executive director of the Office of Homeland Security* ~~[board]~~ under KRS 65.7625, the ~~[Kentucky]~~ Office of Homeland Security shall provide staff services, *office space, and other resources necessary to conduct its affairs* ~~[and carry out administrative duties and functions as directed by the board]~~. The board shall be attached to the ~~[Kentucky]~~ Office of Homeland Security for administrative purposes *but only and* shall operate as an independent entity within state government.
- ~~(6) [(5)]~~ The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.
- ~~(7) [(6)]~~ All administrative costs and expenses incurred in the operation of the board, including payments under *subsections (5) and (6) [subsection (5)] of this section and Section 2 of this Act*, shall be paid *as reimbursement to the Office of Homeland Security* from that portion of the CMRS fund that is authorized under KRS 65.7631(2) to be used by the board for administrative purposes. *Expenses for personnel, equipment, or facilities that serve multiple functions or purposes shall be prorated. Only those costs for*

services directly involved in the coordination and administration of duties related to the CMRS emergency telecommunications function shall be eligible for payment using the funds provided in KRS 65.7631(2).

- (8) *Prior to June 1 of each year, the Office of Homeland Security shall submit a budget detailing all projected administrative and operational expenses for the subsequent fiscal year to be used by the board in establishing the board's budget for the upcoming fiscal year.*
- (9) *The board shall be advised by a permanent advisory council with members appointed by the executive director of the Office of Homeland Security. The members of the advisory council shall represent the interests of the 911 community and shall, at a minimum, include a representative from each of the following organizations:*
 - (a) *1. The Department of Kentucky State Police;*
 - 2. The Kentucky Sheriff's Association;*
 - 3. The Kentucky Association of Chiefs of Police;*
 - 4. The Kentucky Fire Chiefs Association;*
 - 5. The Kentucky Ambulance Providers Association;*
 - 6. The Kentucky League of Cities;*
 - 7. The Kentucky Association of Counties;*
 - 8. The Department of Criminal Justice Training; and*
 - 9. The Kentucky Board of Emergency Medical Services;*
 - (b) *The Kentucky Association of Public-Safety Communications Officials and the Kentucky Emergency Number Association, each appointed by the executive director of the Office of Homeland Security from a list of three (3) names submitted by both organizations; and*
 - (c) *Any other members selected by the executive director who are familiar with PSAPs, public finances, shared governmental services, emergency management, community crisis response preparation, or the interests of 911 service stakeholders.*

➔Section 2. KRS 65.7625 is amended to read as follows:

- (1) The *executive director of the Office of Homeland Security*~~[Kentucky 911 Services Board]~~ shall appoint a state administrator of commercial mobile radio service emergency telecommunications. The *executive director of the Office of Homeland Security*~~Board~~ shall set the administrator's compensation, *the cost of which may be shared by the Office of Homeland Security and the Kentucky 911 Services Board. The board shall be responsible for any portion of the administrator's salary that is not to be paid by the Office of Homeland Security, with the board's portion of the salary to*~~[which shall]~~ be paid from that portion of the CMRS fund that is authorized under KRS 65.7631(2) to be used by the board for administrative purposes.
- (2) The administrator of CMRS emergency telecommunications shall serve as the coordinator and administrator on behalf of the board, and shall conduct the day-to-day operations of the board.
- (3) The administrator shall, with the advice of the board, coordinate and direct a statewide effort to expand and improve enhanced emergency telecommunications capabilities and responses throughout the state, including but not limited to the implementation of wireless E911 service requirements of the FCC order and rules and regulations adopted in carrying out that order. In this regard, the administrator shall:
 - (a) Obtain, maintain, and disseminate information relating to emergency telecommunications technology, advances, capabilities, and techniques;
 - (b) Coordinate and assist in the implementation of advancements and new technology in the operation of emergency telecommunications in the state, including the development and implementation of next generation 911 service;
 - (c) Implement compliance throughout the state with the wireless E911 service requirements established by the FCC order and any rules or regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order; and

- (d) Perform all functions and duties assigned by the board in carrying out the purposes of KRS 65.7621 to 65.7643, including but not limited to making a full report to the board at each meeting of the activities in which the administrator has engaged in the discharge of his or her duties since the previous meeting.

➔Section 3. KRS 65.7631 is amended to read as follows:

- (1) The moneys in the CMRS fund shall be apportioned among the approved uses of the fund as specified in this section. The board shall make individual disbursements from the fund upon such terms and conditions necessary in view of the amount of revenues on deposit at the time each request for disbursement is reviewed and approved.
- (2) Not more than two and one-half percent (2.5%) of the total monthly revenues deposited into the CMRS fund shall be disbursed or reserved for disbursement by the board to pay the administrative costs and expenses incurred in the operation of the board in carrying out the functions and duties set forth in KRS 65.7621 to 65.7643.
- (3)
 - (a) Two and one-half percent (2.5%) of the total monthly revenues deposited into the CMRS fund shall be used solely for the purpose of reimbursing the actual expenses incurred by tier III CMRS providers from June 30, 2011, to January 1, 2016, for complying with requirements established by the FCC order. Reimbursement under this subsection is only available to tier III CMRS providers that:
 - 1. Have a cost recovery plan that was approved by the CMRS Board, predecessor in name to the Kentucky 911 Services Board, prior to June 30, 2011; and
 - 2. Had received approval for reimbursement from the CMRS Board, predecessor in name to the Kentucky 911 Services Board, prior to the effective date of this section.
 - (b) When all reimbursements approved under this subsection have been paid, the two and one-half percent (2.5%) apportioned under this subsection shall be used solely for the purposes specified in subsection (5) of this section.
- (4) Ten percent (10%) of the total monthly revenues deposited into the CMRS fund shall be disbursed or reserved for disbursement to provide direct grants, matching money, or funds to PSAPs as determined by the Kentucky 911 Services Board:
 - (a) For the establishment and improvement of 911 services in the Commonwealth, including the implementation of next generation 911 capacity;
 - (b) For incentives to create more efficient delivery of 911 services by local governments receiving funding under subsection (5) of this section;
 - (c) For improvement of 911 infrastructure by Tier III wireless providers receiving funding under this section; and
 - (d) For consolidation reimbursement of two hundred thousand dollars (\$200,000) per PSAP, not to exceed four hundred thousand dollars (\$400,000) per county, to any PSAP that consolidates with a CMRS-certified PSAP, or creates a newly consolidated Phase II compliant PSAP. Funds shall be applied toward the cost of consolidating. If a PSAP consolidates and receives reimbursement, the Kentucky 911 Services Board shall not certify a new PSAP within the same county for a period of ten (10) years.

When the balance of money collected under this subsection and not yet obligated for permitted uses exceeds ~~three~~~~two~~ million dollars ~~(\$3,000,000)~~~~(\$2,000,000)~~ in any fiscal year, the excess amount shall be allocated under subsection (5) of this section.

- (5) The balance of the total monthly revenues deposited into the CMRS fund after the amounts disbursed or reserved for disbursement under subsections (2), (3), and (4) of this section have been subtracted shall be distributed to PSAPs eligible to receive disbursement from the CMRS fund under subsection (6) of this section who actually request disbursement, as follows:
 - (a) Fifty percent (50%) of the remaining balance to be allocated under this subsection shall be distributed according to the "PSAP pro rata formula," whereby each receives a percentage determined by dividing one (1) by the total number of PSAPs eligible to request and actually requesting disbursements under subsection (6) of this section. Any PSAPs certified before January 1, 2004, or for more than three (3) years, that choose to consolidate their operations shall continue to receive pro-rata shares as if they remained separate and distinct entities. The consolidated entity must be certified to receive funds under subsection (6) of this section; and

- (b) Fifty percent (50%) of the remaining balance to be allocated under this subsection shall be distributed according to a method chosen by the board and based on the wireless workload of the PSAP. Methods to be considered may be based on the number of wireless 911 calls answered by each PSAP, the number of wireless phone users served by each PSAP, or any other method deemed by the board to be reasonable and equitable. The method chosen by the board shall be promulgated as a regulation under KRS 65.7633.

All amounts distributed to PSAPs under this subsection shall be used by the PSAPs solely for the purposes of answering, routing, and properly disposing of CMRS 911 calls, training PSAP staff, and public education concerning appropriate use of 911, in accordance with KRS 65.760(4) and (5). Additionally, amounts distributed to PSAPs under this subsection may be used for the purposes of complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission pursuant to the FCC order, including the payment of costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service.

- (6) (a) Notwithstanding any other provision of the law, no PSAP shall be eligible to request or receive a disbursement from the CMRS fund under subsection (4)(a) or (b) or (5) of this section unless and until the PSAP:
 - 1. Is expressly certified as a PSAP by the Kentucky 911 Services Board, upon written application to the board;
 - 2. Demonstrates that the PSAP is providing E911 services to a local government that has adopted an ordinance either imposing a special tax, license, or fee as authorized by KRS 65.760(3) or has established other means of funding wireline 911 emergency service;
 - 3. Demonstrates that the administrator of the PSAP sent a request for wireless, E911 service to a CMRS provider, and that the infrastructure of the local exchange carrier will support wireless E911 service;
 - 4. Provides an accounting of the number of wireless E911 calls received by the PSAP during the prior calendar year if requested by the board; and
 - 5. Demonstrates that the PSAP has made the investment which is necessary to allow the PSAP to receive and utilize the data elements associated with wireless E911 service.
- (b) In addition to the requirements of paragraph (a) of this subsection and in order to encourage the additional consolidation of PSAPs by local governments and state government agencies, after January 1, 2017, a PSAP shall receive priority consideration for distributions of funds from subsection (4)(a) and (b) of this section as follows:
 - 1. A PSAP that is not a state police dispatch center and that covers all local governments within two (2) or more counties shall receive first priority in the distribution of the funds by the board;
 - 2. A PSAP, including any state police dispatch center, that covers all the local governments within a single county shall receive second priority in the distribution of the funds by the board; and
 - 3. A PSAP that does not cover all of the local governments within a single county shall receive the last priority for the distribution of the funds listed in this subsection by the board.

Signed by Governor April 10, 2018.

CHAPTER 139

(HB 373)

AN ACT relating to disclosure of body-worn camera recordings.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Body-worn camera" means a video or audio electronic recording device that is carried by or worn on the body of a public safety officer. This definition does not include a dashboard mounted camera or recording device used in the course of clandestine investigations;*
 - (b) *"Body-worn camera recording" or "recording" means a video or audio recording, or both, that is made by a body-worn camera during the course of a public safety officer's official duties;*
 - (c) *"Personal representative" means a court-appointed guardian, attorney, or agent possessing written authorization to act on behalf of a person that is involved in an incident contained in a body-worn camera recording, a person holding a power of attorney for a person that is involved in an incident contained in a body-worn camera recording, or the parent or guardian of a minor child depicted in a body-worn camera recording. If a person depicted in the recording is deceased, the term also means the personal representative of the estate of the deceased person, the deceased person's surviving spouse, parent, or adult child, the deceased person's attorney, or the parent or guardian of a surviving minor child of the deceased;*
 - (d) *"Public agency" has the same meaning as in KRS 61.870(1);*
 - (e) *"Public safety officer" means any individual that is an employee of a public agency who is certified as a first responder under KRS Chapter 311A or whose employment duties include law enforcement or firefighting activities; and*
 - (f) *"Use of force" means any action by a public safety officer that results in death, physical injury as defined in KRS 500.080(13), discharge of a personal body weapon, chemical agent, impact weapon, extended range impact weapon, sonic weapon, sensory weapon, conducted energy weapon, or a firearm, or involves the intentional pointing of a public safety officer's firearm at a member of the public.*
- (2) *Except as provided in this section, the disclosure of body-worn camera recordings shall be governed by the Kentucky Open Records Act, as set forth in KRS 61.870 to 61.884.*
- (3) *The retention of body-worn camera video recordings shall be governed by KRS 171.410 to 171.740, and the administrative regulations promulgated by the Kentucky Department of Libraries and Archives.*
- (4) *Notwithstanding KRS 61.878(4), unless the request meets the criteria provided under subsection (5) of this section, a public agency may elect not to disclose body-worn camera recordings containing video or audio footage that:*
- (a) *Includes the interior of a place of a private residence where there is a reasonable expectation of privacy, unless the legal owner or lessee with legal possession of the residence requests in writing that the release be governed solely under the provisions of KRS 61.870 to 61.874;*
 - (b) *Includes the areas inside of a medical facility, counseling, or therapeutic program office where a patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment;*
 - (c) *Would disclose health care information shared with patients, their families, or with a patient's care team or that is considered protected health information under the Health Insurance Portability and Accountability Act of 1996;*
 - (d) *Includes the areas inside of a correctional facility when disclosure would reveal details of the facility that would jeopardize the safety, security, or well-being of those in custody, the staff of the correctional facility, or law enforcement officers;*
 - (e) *Is of a sexual nature or video footage that contains nude images of an individual's genitals, pubic area, anus, or the female nipple;*
 - (f) *Is of a minor child, including but not limited to footage involving juvenile custody matters;*
 - (g) *Includes the body of a deceased individual;*
 - (h) *Would reveal the identity of witnesses, confidential law enforcement informants, or undercover law enforcement officers, or if the release could jeopardize the safety, security, or well-being of a witness or confidential informant;*
 - (i) *Would reveal the location information of a domestic violence program or emergency shelter;*

- (j) *Would reveal information related to schools, colleges, and universities that is protected by the federal Family Educational Rights and Privacy Act;*
 - (k) *Would result in the disclosure of nonpublic or confidential data classified Criminal Justice Information Services data by the Federal Bureau of Investigation;*
 - (l) *Includes a public safety officer carrying out duties directly related to the hospitalization of persons considered mentally ill;*
 - (m) *Includes the depiction of the serious injury or death of a public safety officer; or*
 - (n) *Includes footage made in conjunction with a law enforcement exercise that includes special response team actions, hostage negotiations, or training events, but only where the public release of tactics, operational protocol, or methodology would disadvantage the capability of public safety officers to successfully respond in emergency or other dangerous situations.*
- (5) *If the recording contains video or audio footage that:*
- (a) *Depicts an encounter between a public safety officer where there is a use of force, the disclosure of the record shall be governed solely by the provisions of KRS 61.870 to 61.884, including all of the exceptions contained therein;*
 - (b) *Depicts an incident which leads to the detention or arrest of an individual or individuals, the disclosure of the record shall be governed solely by the provisions of KRS 61.870 to 61.884, including all of the exceptions contained therein;*
 - (c) *Depicts an incident which is the subject of a formal complaint submitted against a public safety officer under KRS 15.520, 67C.326, or 95.450, or depicts an incident which is the subject of a formal legal or administrative complaint against the agency employing the public safety officer, the release of the record shall be governed by the provisions of KRS 61.870 to 61.884, including all of the exceptions contained therein; or*
 - (d) *Is requested by a person or other entity or the personal representative of a person or entity that is directly involved in the incident contained in the body-worn camera recording, it shall be made available by the public agency to the requesting party for viewing on the premises of the public agency, but the public agency shall not be required to make a copy of the recording except as provided in Section 2 of this Act. The requesting parties shall not be limited in the number of times they may view the recording under this paragraph.*
- (6) *Nothing in this section or Section 2 of this Act shall be interpreted to override any provision related to:*
- (a) *Reports by law enforcement officers and criminal justice agencies under KRS 17.150;*
 - (b) *The law and rules governing discovery or the submission and display of evidence in any court proceeding, whether criminal or civil, or any administrative proceeding; or*
 - (c) *The provisions of KRS 189A.100.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to the provisions of KRS 61.870 to 61.884 and the following requirements, a copy of a recording that may be viewed under subsection (5)(d) of Section 1 of this Act shall, upon request, be made for and provided to an attorney that:*
- (a) *Is licensed to practice law in the Commonwealth of Kentucky;*
 - (b) *Represents the person or entity that is directly involved in the incident contained in the body-worn camera recording;*
 - (c) *Has not been disqualified under subsection (3) of this section; and*
 - (d) *Executes an affidavit in support of limited release regarding the attorney's responsibility for the care and custody of the copy of the recording that specifically stipulates that he or she:*
 - 1. *Will only use the recording for the sole purposes of evaluating or preparing for an existing or potential court case or administrative proceeding or in consulting with insurance companies on matters related to insurance coverage of incidents that are depicted in the recording;*

2. *Will not distribute duplicate copies of the recording except for the sole purpose of having an expert or other professional consultant provide analysis to the attorney for the purposes of evaluating or preparing for an existing or potential court case or administrative proceeding or with an insurance company for the purposes of accessing claims coverage, settlement, or other matters involving an insurance contract;*
 3. *Will execute a contract with any expert, professional consultant, or insurance company that is provided a duplicate copy of the recording pursuant to this paragraph that requires the expert or professional consultant to be bound by the same limitations and requirements as the attorney for the care and custody of the recording as required by this paragraph;*
 4. *Will not allow individuals or others that are not under the attorney's control or supervision the ability to view the contents of the recording in any form except for the sole purpose of preparation for an existing or potential court or administrative proceeding, communications regarding matters related to insurance, or for the purposes of displaying the recording as evidence in any court or administrative proceeding;*
 5. *Will destroy any copy of the recording when the recording is no longer used for the purposes of this section or the court or administrative proceeding has been finally adjudicated to its conclusion; and*
 6. *Acknowledges that as an officer of the court he or she may be subject to professional discipline or other legal liability for a breach of an affidavit executed under this section.*
- (2) *If an attorney violates an affidavit executed under subsection (1) of this section, the public agency shall refer the matter to the Kentucky Bar Association for it to consider any appropriate action under the Kentucky Rules of Professional Conduct. The public agency may take any additional legal action against an attorney for such a violation.*
- (3) *Any attorney who has been disciplined under the Rules of Professional Conduct or has otherwise been found by a court of law to have violated an affidavit executed under subsection (1) of this section shall be disqualified from making any subsequent requests for copies of recordings under the provisions of this section.*
- (4) *A public agency that produces a copy of a recording pursuant to this section may treat the request for the recording as a commercial request and charge a reasonable fee for the costs of production as authorized under KRS 61.874(4)(c).*

Signed by Governor April 10, 2018.

CHAPTER 140

(HB 369)

AN ACT relating to contracts.

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

➔Section 1. KRS 360.010 is amended to read as follows:

- (1) Except as provided in KRS 360.040, the legal rate of interest is eight percent (8%) per annum, but any party or parties may agree, in writing, for the payment of interest in excess of that rate as follows:
 - (a) At a per annum rate not to exceed four percent (4%) in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District where the transaction is consummated or nineteen percent (19%), whichever is less, on money due or to become due upon any contract or other obligation in writing where the original principal amount is fifteen thousand dollars (\$15,000) or less; ~~and~~
 - (b) At any rate on money due or to become due upon any contract or other obligation in writing where the original principal amount is in excess of fifteen thousand dollars (\$15,000).

- (2) ~~[- and -]~~Any~~[- such -]~~ party or parties *to a contract or obligation described in subsection (1) of this section*, and any party or parties who may assume or guarantee ~~the~~~~[- any -]~~~~such~~ contract or obligation, shall be bound, *subject to Section 2 of this Act*, for ~~the~~~~[- such -]~~ rate of interest as is expressed in ~~the~~~~[- any -]~~~~such~~ contract, obligation, assumption, or guaranty, and no law of this state prescribing or limiting interest rates shall apply to ~~the~~~~[- any -]~~~~such~~ agreement or to any charges which pertain thereto or in connection therewith.
- (3) *The party entitled to be paid in any written contract or obligation specifying a rate of interest shall be entitled to recover interest after default at the rate of interest as is expressed in the contract or obligation prior to the default and that interest rate shall be the interest rate for the purpose of KRS 360.040(3). If the interest rate expressed in the contract or obligation is a variable rate, the interest rate after default and until judgment shall be calculated and adjusted as provided in the contract or obligation prior to the default.*
- (4) *The party entitled to be paid in any written contract or obligation not specifying a rate of interest or to which no interest rate otherwise applies shall be entitled to recover interest after default and until judgment at the legal rate of interest.*
- (5) *Nothing in this section*~~[- provided, however, nothing herein contained -]~~ shall be construed to amend, repeal, or abrogate any other law of this state pertaining to any particular types of transactions for which the maximum rate of interest is specifically prescribed or provided.
- (6)~~[- (2) -]~~ Any state or national bank may charge ten dollars (\$10) for any loan negotiated at the bank in this state, even if the legal interest does not amount to that sum.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

- (1) *The obligation of a debtor or obligor to pay or satisfy a debt, liability, or other obligation, including an obligation to pay interest, is not extinguished or otherwise adversely affected, in whole or in part, by any internal action or reporting of internal actions taken by the creditor or other obligee for purposes of the creditor or obligee's own financial, tax, or accounting records or affairs, including but not limited to treating the debt, liability, or other obligation as not collectible.*
- (2) *Nothing in this section shall preclude the debtor or obligor, in any event, from proving that it has fully or partially paid or otherwise satisfied the debt, liability, or other obligation in accordance with the terms of the debt, liability, or other obligation.*

Signed by Governor April 10, 2018.

CHAPTER 141

(HB 363)

AN ACT relating to public assistance reform.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) *At a regularly scheduled interval, each enrollment or benefit tracking agency associated with the Medicaid Program or the food stamps program of the cabinet shall receive and review information from the Kentucky Lottery Corporation concerning individuals enrolled as recipients in the Medicaid Program or the food stamp program that indicates a change in circumstances that may affect eligibility, including but not limited to changes in income or resources.*
- (2) *On at least a monthly basis, each enrollment or benefit tracking agency associated with the Medicaid Program or the food stamps program of the cabinet shall receive and review information from the Department for Vital Statistics concerning individuals enrolled in the Medicaid Program or the food stamp program that indicates a change in circumstances that may affect eligibility.*
- (3) *On at least a quarterly basis, each enrollment or benefit tracking agency associated with the Medicaid Program or the food stamps program of the cabinet shall receive and review information from the Kentucky Division of Unemployment Insurance concerning individuals enrolled in the Medicaid Program or the food*

stamps program that indicates a change in circumstances that may affect eligibility, including but not limited to changes in employment or wages.

- (4) *On at least a quarterly basis, each enrollment or benefit tracking agency associated with the Medicaid Program or the food stamps program of the cabinet shall receive and review information concerning individuals enrolled in the Medicaid Program or the food stamps program that indicates a change in circumstances that may affect eligibility, including but not limited to potential changes in residency as identified by out-of-state electronic benefit transfer transactions.*
- (5) (a) *Notwithstanding any other provision of law to the contrary, each enrollment or benefit tracking agency associated with the Medicaid Program or the food stamps program of the cabinet shall enter into a memorandum of understanding with any department, agency, or division for information detailed in this section.*
 (b) *Notwithstanding any other provision of law to the contrary, any department, agency, or division for information detailed in this section, including but not limited to, the Kentucky Lottery Corporation, the Department for Vital Statistics, the Division of Unemployment Insurance, and the Department for Community Based Services, shall enter into any necessary memoranda of understanding with the enrollment or benefit tracking agency associated with the Medicaid Program or the food stamps program requesting an agreement pursuant to paragraph (a) of this subsection.*
- (6) *Each enrollment or benefit tracking agency associated with the Medicaid Program or the food stamps program of the cabinet may contract with one (1) or more independent vendors to provide additional data or information which may indicate a change in circumstances that may affect eligibility.*
- (7) *Each enrollment or benefit tracking agency associated with the Medicaid Program or the food stamps program of the cabinet shall explore joining any multi-state cooperative to identify individuals who are also enrolled in public assistance programs outside of this state.*
- (8) *If an enrollment or benefit tracking agency associated with the Medicaid Program or the food stamps program of the cabinet receives information concerning an individual enrolled in the Medicaid Program or the food stamps program that indicates a change in circumstances that may affect eligibility, the enrollment or benefit tracking agency or other appropriate agency shall review the individual's case.*
- (9) *The food stamps program of the cabinet shall not seek, apply for, accept or renew any waiver of requirements established under 7 U.S.C. sec. 2015(o) unless there is an economic downturn resulting in an unemployment rate of ten percent (10%) or more or the Cabinet for Health and Family Services determines an increase in the unemployment rate in any particular county is severe enough to necessitate a waiver.*
- (10) *The cabinet shall promulgate all rules and regulations necessary for the purposes of carrying out this section.*
- (11) *On or before December 1 of each year, the Cabinet for Health and Family Services shall submit a report relating to the number of individuals discovered utilizing services inappropriately, the number of individuals who were removed from one (1) or more public assistance programs as a result of a review pursuant to this section, and the amount of public funds preserved in total and by public assistance program and aggregated by prior years. This report shall be forwarded to the Interim Joint Committees on Health and Welfare and Family Services and Appropriations and Revenue of the Legislative Research Commission.*

➔Section 2. The Cabinet for Health and Family Services shall examine the question of requiring noncustodial parents to cooperate with the Department for Income Support as a condition of eligibility for the food stamp program, and, by October 1, 2018, shall report to the Interim Joint Committee on Judiciary and the Interim Joint Committee on Health and Welfare and Family Services of the Legislative Research Commission.

➔Section 3. Section 1 of this Act takes effect January 1, 2019.

Signed by Governor April 10, 2018.

(HB 454)

AN ACT relating to the human rights of unborn children and declaring an emergency.

WHEREAS, moral and philosophical concepts of dignity hold that a human being is entitled to receive ethical and humane treatment and is to be respected and valued in all phases of life; and

WHEREAS, the Declaration of Independence recognizes the fundamental truth that all people have been endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness; and

WHEREAS, the Constitution of this Commonwealth guarantees that all human beings have the right of enjoying and defending their lives and liberty as well as seeking and pursuing their safety and happiness; and

WHEREAS, the Supreme Court of the United States of America has recognized that states have a legitimate interest in protecting the life of the unborn; and

WHEREAS, recognizing the human rights of an unborn child does not contravene prior Supreme Court jurisprudence nor undermine a woman's right to self-determination or bodily autonomy, but instead upholds the state's legitimate interest in protecting the life of the unborn; and

WHEREAS, the Supreme Court has further held that the states, with a rational basis to act and without creating an undue burden on women, may bar certain procedures for the purpose of regulating the medical profession so as to promote respect for life, including the life of the unborn. *Gonzales v. Carhart*, 550 U.S. 124, 158 (2007); and

WHEREAS, giving the life of the unborn equal consideration as that of the mother does not create an undue burden on the mother; and

WHEREAS, the Commonwealth of Kentucky statutorily recognizes an unborn child as a human being from conception onward, without regard to age, health, or condition of dependency; and

WHEREAS, it is an indisputable scientific fact that by the end of ten weeks the unborn child can be seen on an ultrasound to have fingers, hands, arms, toes, feet, legs, eyelids, and ears further confirming the statutory acknowledgment that the unborn child is a human being; and

WHEREAS, certain abortive medical procedures resulting in dismemberment, crushing, or human vivisection are brutal for unborn children in contravention of their unalienable rights that replicates past indiscretions of a disregard for the rights of others; and

WHEREAS, Justice Kennedy has recognized the brutality of these procedures by stating, "The fetus, in many cases, dies just as a human adult or child would: It bleeds to death as it is torn limb from limb." *Stenberg v. Carhart*, 530 U.S. 914, 958 (2000); and

WHEREAS, Justice Stevens, with whom Justice Ginsburg concurred, reflected on the dichotomy of upholding the ban on partial-birth abortions but not dilation and extraction procedures by writing, "The notion that either of these two equally gruesome procedures performed at this late stage of gestation is more akin to infanticide than the other, or that the State furthers any legitimate interest by banning one but not the other, is simply irrational." *Stenberg v. Carhart*, 530 U.S. 914, 946-947 (2000); and

WHEREAS, past failures to uphold and respect the unalienable rights and dignity of other human beings protected by the laws of the Commonwealth and this great nation resulted in unfair and detrimental practices that still affect the lives of so many Kentuckians and Americans today;

NOW, THEREFORE,

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

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

(1) *As used in this section:*

- (a) *"Bodily dismemberment, crushing, or human vivisection" means a procedure in which a person, with the purpose of causing the death of an unborn child, dismembers the living unborn child and extracts portions, pieces, or limbs of the unborn child from the uterus through the use of clamps, grasping forceps, tongs, scissors, or a similar instrument that, through the convergence of two (2) rigid levers, slices, crushes, or grasps, or performs any combination of those actions on, any portion, piece, or limb of the unborn child's body to cut or separate the portion, piece, or limb from the body. The term includes a procedure that is used to cause the death of an unborn child and in which*

suction is subsequently used to extract portions, pieces, or limbs of the unborn child after the unborn child's death;

- (b) *"Medical emergency" has the same meaning as in KRS 311.720;*
 - (c) *"Probable post-fertilization age" has the same meaning as in KRS 311.781; and*
 - (d) *"Unborn child" has the same meaning as in KRS 311.781.*
- (2) *No person shall intentionally perform or induce or attempt to perform or induce an abortion on a pregnant woman:*
- (a) *That will result in the bodily dismemberment, crushing, or human vivisection of the unborn child; and*
 - (b) *When the probable post-fertilization age of the unborn child is eleven (11) weeks or greater; except in the case of a medical emergency.*
- (3) *A pregnant woman on whom an abortion is performed or induced or attempted to be performed or induced in violation of subsection (2) of this section is not guilty of violating subsection (2) of this section or of attempting to commit, conspiring to commit, or complicity in committing a violation of subsection (2) of this section.*

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

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.
- (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
- (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.
- (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
- (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- (13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (17) Any person who violates KRS 311.770 ~~or 311.780~~ shall be guilty of a Class D felony.
- (18) ***Except as provided in subsection (3) of Section 1 of this Act, any person who intentionally violates Section 1 of this Act shall be guilty of a Class D felony.***
- (19) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- ~~(20)~~~~(19)~~ Except as provided in KRS 311.782(6), any person who intentionally violates KRS 311.782 shall be guilty of a Class D felony.
- ~~(21)~~~~(20)~~ Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.
- ~~(22)~~~~(21)~~ Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- ~~(23)~~~~(22)~~ Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- ~~(24)~~~~(23)~~ Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- ~~(25)~~~~(24)~~ Any person who violates KRS 311.905(3) shall be guilty of a violation.
- ~~(26)~~~~(25)~~ Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- ~~(27)~~~~(26)~~ (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor.
- (b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.
- ~~(28)~~~~(27)~~ Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

- ~~(29)~~~~(28)~~ Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- ~~(30)~~~~(29)~~ Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- ~~(31)~~~~(30)~~ Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- ~~(32)~~~~(31)~~ Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).
- ~~(33)~~~~(32)~~ (a) Any physician or qualified technician who violates KRS 311.727 shall be fined not more than one hundred thousand dollars (\$100,000) for a first offense and not more than two hundred fifty thousand dollars (\$250,000) for each subsequent offense.
- (b) In addition to the fine, the court shall report the violation of any physician, in writing, to the Kentucky Board of Medical Licensure for such action and discipline as the board deems appropriate.
- ~~(34)~~~~(33)~~ Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense. In addition to any other penalty imposed for that violation, the board may, through the Attorney General, petition a Circuit Court to enjoin the person who is violating KRS 311.691 from practicing genetic counseling in violation of the requirements of KRS 311.690 to 311.700.

➔Section 3. Whereas the fundamental rights of Kentuckians deserve immediate protection, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2018.

CHAPTER 143

(HB 444)

AN ACT relating to health facilities and services.

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

➔Section 1. KRS 216.2927 is amended to read as follows:

- (1) The following types of data shall be deemed as relating to personal privacy and, except by court order, shall not be published or otherwise released by the cabinet or its staff and shall not be subject to inspection under KRS 61.870 to 61.884:
 - (a) Any data, summary of data, correspondence, or notes that identify or could be used to identify any individual patient or member of the general public, unless the identified individual gives written permission to release the data or correspondence;
 - (b) Any correspondence or related notes from or to any employee or employees of a provider if the correspondence or notes identify or could be used to identify any individual employee of a provider, unless the corresponding persons grant permission to release the correspondence; and
 - (c) Data considered by the cabinet to be incomplete, preliminary, substantially in error, or not representative, the release of which could produce misleading information.
- (2) Health-care providers submitting required data to the cabinet shall not be required to obtain individual permission to release the data, except as specified in subsection (1) of this section, and, if submission of the data to the cabinet complies with pertinent administrative regulations promulgated pursuant to KRS Chapter 13A, shall not be deemed as having violated any statute or administrative regulation protecting individual privacy.

- (3) (a) No less than sixty (60) days after the annual report or reports are published and except as otherwise provided, the cabinet shall make all aggregate data which does not allow disclosure of the identity of any individual patient, and which was obtained for the annual period covered by the reports, available to the public.
- (b) Persons or organizations requesting use of the data shall agree to abide by a public-use data agreement and by ~~HIPAA~~~~[HIPPA]~~ privacy rules referenced in 45 C.F.R. Part 164. The public-use data agreement shall include, at a minimum, a prohibition against the sale or further release of data, and guidelines for the use and analysis of the data released to the public related to provider quality, outcomes, or charges.
- ~~[(c) Single copies of the printed data shall be made available to individuals at no cost. The cabinet may impose a fee for providing electronic or multiple printed copies of the data. At least one (1) printed and one (1) electronic copy of the aggregate data shall be provided without charge to the Legislative Research Commission.]~~
- (4) Collection of data about individual patients shall *include information commonly used to identify an individual for assigning a unique patient identifier. Upon assigning a unique patient identifier, all direct identifying information shall be stripped from the data and shall not be retained by the cabinet or the cabinet's designee*~~[be in a nonidentifying numeric form and shall not include a patient's name or Social Security number. Any person who receives information identifying a patient through error or any other means shall return all copies of the information immediately].~~
- (5) All data and information collected shall be kept in a secure location and under lock and key when specifically responsible personnel are absent.
- (6) Only designated cabinet staff shall have access to raw data and information. The designated staff shall be made aware of their responsibilities to maintain confidentiality. Staff with access to raw data and information shall sign a statement indicating that the staff person accepts responsibility to hold that data or identifying information in confidence and is aware of penalties under state or federal law for breach of confidentiality. Data which, because of small sample size, breaches the confidence of individual patients, shall not be released.
- (7) Any employee of the cabinet who violates any provision of this section shall be fined not more than five hundred dollars (\$500) for each violation or be confined in the county jail for not more than six (6) months, or both, and shall be removed and disqualified from office or employment.

➔Section 2. KRS 216.380 is amended to read as follows:

- (1) The licensure category of critical access hospital is hereby created for existing licensed acute-care hospitals which qualify under this section for that status.
- (2) It shall be unlawful to operate or maintain a critical access hospital without first obtaining a license from the Cabinet for Health and Family Services. An acute-care hospital converting to a critical access hospital shall not require a certificate of need. A certificate of need shall not be required for services provided on a contractual basis in a critical access hospital. A certificate of need shall not be required for an existing critical access hospital to increase its acute-care bed capacity to twenty-five (25) beds.
- (3) Except as provided in subsection (4) of this section, only a hospital licensed as a general acute-care hospital may be relicensed as a critical access hospital if:
 - (a) The hospital is located in a county in a rural area that is:
 - 1. Located more than a thirty-five (35) mile drive, or, where the terrain is mountainous or only secondary roads are available, located more than a fifteen (15) mile drive, from another acute-care hospital or critical access hospital; or
 - 2. Certified by the secretary as a necessary provider of health care services to area residents;
 - (b) For the purposes of paragraph (a) of this subsection, a hospital shall be considered to be located in a rural area if the hospital is not in a county which is part of a standard metropolitan statistical area, the hospital is located in a rural census tract of a metropolitan statistical area as determined under the most recent modification of the Goldsmith Modification, or is designated by the state as a rural provider. The secretary shall designate a hospital as a rural provider if the hospital is not located in a county which has the largest county population of a standard metropolitan statistical area;

- (c) Except as provided in paragraph (d) of this subsection, the hospital provides not more than twenty-five (25) acute care inpatient beds for providing acute inpatient care for a period that does not exceed, as determined on an annual, average basis, ninety-six (96) hours;
 - (d) If the hospital is operating swing beds under which the hospital's inpatient hospital facilities are used for the provision of extended care services, the hospital may be designated as a critical access hospital so long as the total number of beds that may be used at any time for furnishing of either extended care services or acute inpatient services does not exceed twenty-five (25) beds. For the purposes of this section, any bed of a unit of the hospital that is licensed as a nursing facility at the time the hospital applies to the state for designation as a critical care access hospital shall not be counted.
- (4) The secretary for health and family services may designate a facility as a critical access hospital if the facility:
 - (a) Was a hospital that ceased operations on or after ten (10) years prior to April 21, 2000; or
 - (b) Was a hospital that was converted to a licensed ~~primary care center, rural health clinic, ambulatory health center,~~ or other type of licensed health clinic or health center and, as of the effective date of that conversion, meets the criteria for licensure as a critical access hospital under this subsection or subsection (3) of this section.
- (5) A critical access hospital shall provide the following services:
 - (a) Twenty-four (24) hour emergency-room care that the secretary determines is necessary for insuring access to emergency care services in each area served by a critical access hospital; and
 - (b) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on a part-time, off-site contractual basis.
- (6) A critical access hospital may provide the following services:
 - (a) Swing beds or a distinct unit of the hospital which is a nursing facility in accordance with KRS Chapter 216B and subject to approval under certificate of need;
 - (b) Surgery;
 - (c) Normal obstetrics;
 - (d) Primary care;
 - (e) Adult day health care;
 - (f) Respite care;
 - (g) Rehabilitative and therapeutic services including, but not limited to, physical therapy, respiratory therapy, occupational therapy, speech pathology, and audiology, which may be provided on an off-site contractual basis;
 - (h) Ambulatory care;
 - (i) Home health services which may be established upon obtaining a certificate of need; and
 - (j) Mobile diagnostic services with equipment not exceeding the major medical equipment cost threshold pursuant to KRS Chapter 216B and for which there are no review criteria in the State Health Plan.
- (7) In addition to the services that may be provided under subsection (6) of this section, a critical access hospital may establish the following units in accordance with applicable Medicare regulations and subject to certificate of need approval:
 - (a) A psychiatric unit that is a distinct part of the hospital, with a maximum of ten (10) beds; and
 - (b) A rehabilitation unit that is a distinct part of the hospital, with a maximum of ten (10) beds notwithstanding any other bed limit contained in law or regulation.
- (8) Psychiatric unit and rehabilitation unit beds operated under subsection (7) of this section shall not be counted in determining the number of beds or the average length of stay of a critical access hospital for purposes of applying the bed and average length of stay limitations under paragraph (c) of subsection (3) of this section.
- (9) The following staffing plan shall apply to a critical access hospital:
 - (a) The hospital shall meet staffing requirements as would apply under section 1861(e) of Title XVIII of the Federal Social Security Act to a hospital located in a rural area except that:

1. The hospital need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the hospital shall be open and fully staffed, except insofar as the facility is required to make available emergency services and nursing services available on a twenty-four (24) hour basis; and
 2. The hospital need not otherwise staff the facility except when an inpatient is present; and
- (b) Physician assistants and nurse practitioners may provide inpatient care within the limits of their statutory scope of practice and with oversight by a physician who is not required to be on-site at the hospital.
- (10) A critical access hospital shall have a quality assessment and performance improvement program and procedures for review of utilization of services.
- (11) A critical access hospital shall have written contracts assuring the following linkages:
- (a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the critical access hospital for recuperative care;
 - (b) Ambulance services;
 - (c) Home health services; and
 - (d) Nursing facility services if not provided on-site.
- (12) If the critical access hospital is part of a rural health network, the hospital shall have the following:
- (a) An agreement for patient referral and transfer, development, and use of communications systems including telemetry and electronic sharing of patient data, and emergency and nonemergency transportation; and
 - (b) An agreement for credentialing and quality assurance with a network hospital, peer review organization, or other appropriate and qualified entity identified in the state rural health plan.
- (13) The Cabinet for Health and Family Services and any insurer or managed care program for Medicaid recipients that contracts with the Department for Medicaid Services for the receipt of Federal Social Security Act Title XIX funds shall provide for reimbursement of services provided to Medicaid recipients in a critical access hospital at rates that are at least equal to those established by the Federal Health Care Financing Administration or Centers for Medicare and Medicaid Services for Medicare reimbursement to a critical access hospital.
- (14) The Cabinet for Health and Family Services shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

➔Section 3. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530:

- (1) "Long-term-care facilities" means those health-care facilities in the Commonwealth which are defined by the Cabinet for Health and Family Services to be family-care homes, personal-care homes, intermediate-care facilities,~~[skilled nursing facilities,]~~ nursing facilities~~[as defined in Pub. L. 100-203],~~ nursing homes, and ***intermediate care facilities for individuals with intellectual disabilities***~~[intermediate care facilities for the intellectually and developmentally disabled].~~
- (2) "Resident" means any person who is admitted to a long-term-care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance.
- (3) "Cabinet" means the Cabinet for Health and Family Services.

➔Section 4. KRS 216.535 is amended to read as follows:

- (1) As used in KRS 216.537 to 216.590:

- (a) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Cabinet for Health and Family Services to be family care homes, personal care homes, intermediate care facilities,~~[skilled nursing facilities,]~~ nursing facilities~~[as defined in Pub. L. 100-203],~~ nursing homes, and intermediate care facilities for ***individuals with intellectual disabilities***~~[the intellectually and developmentally disabled];~~
- (b) "Cabinet" means the Cabinet for Health and Family Services;

- (c) "Resident" means any person admitted to a long-term care facility as defined by this section;
 - (d) "Licensee" in the case of a licensee who is an individual means the individual, and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership, or association;
 - (e) "Secretary" means the secretary of the Cabinet for Health and Family Services;
 - (f) "Long-term care ombudsman" means the person responsible for the operation of a long-term care ombudsman program which investigates and resolves complaints made by or on behalf of residents of long-term care facilities; and
 - (g) "Willful interference" means an intentional, knowing, or purposeful act or omission which hinders or impedes the lawful performance of the duties and responsibilities of the ombudsman as set forth in this chapter.
- (2) The following information shall be available upon request of the affected Medicaid recipient or responsible party:
- (a) Business names, business addresses, and business telephone numbers of operators and administrators of the facility; and
 - (b) Business names, business addresses, and business telephone numbers of staff physicians and the directors of nursing.
- (3) The following information shall be provided to the nursing facility patient upon admission:
- (a) Admission and discharge policies of the facility;
 - (b) Payment policies relevant to patients for all payor types; and
 - (c) Information developed and distributed to the nursing facility by the Department for Medicaid Services, including but not limited to:
 - 1. Procedures for implementation of all peer review organizations' reviews and appeals processes;
 - 2. Eligibility criteria for the state's Medical Assistance Program, including circumstances when eligibility may be denied; and
 - 3. Names and telephone numbers for case managers and all state long term care ombudsmen.

➔Section 5. KRS 216.545 is amended to read as follows:

- (1) The cabinet shall prepare a statement of the requirements of KRS 216.537 and 216.540 which shall become part of the public notice required to be posted in each facility in accordance with KRS 216.543.
- (2) All long-term care facilities shall provide every resident, upon admission, with a personal copy of the statement required in subsection (1) of this section.~~[- In the case of current residents, a statement shall be provided within ninety (90) days after July 15, 1982. -]~~

➔Section 6. KRS 216.563 is amended to read as follows:

The cabinet shall ***promulgate administrative***~~[- within six (6) months of July 15, 1982, upon consultation with industry, professional and consumer groups affected by KRS 216.537 to 216.590, publish proposed]~~ regulations setting forth the criteria and, where feasible, the specific acts that constitute Type A and B violations as specified by KRS 216.537 to 216.590.~~[- The criteria shall be reviewed at least quarterly for the purpose of more clearly defining the specific acts or circumstances which constitute Type A and B violations. -]~~ No violation or civil penalty for violations of KRS 216.537 to 216.590 shall be assessed until the initial regulations are effective pursuant to KRS Chapter 13A.

➔Section 7. KRS 216.577 is amended to read as follows:

Upon a finding that conditions in a long-term care facility constitute a Type A violation, and the licensee fails to correct the violation within the time specified for correction by the cabinet, the secretary shall take at least one (1) of the following actions with respect to the facility in addition to the issuance of a citation, or the assessment of a civil penalty therefor:

- (1) Institute proceedings to obtain an order compelling compliance with the regulations, standards, or requirements as set forth by the ***Cabinet for Health and Family Services***~~[- Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board]~~, the provisions of KRS 216.510 to 216.525, or

applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act;

- (2) Institute injunctive proceedings in Circuit Court to terminate the operation of the facility; or
- (3) Selectively transfer residents whose care needs are not being adequately met by the long-term care facility.

➔Section 8. KRS 216.595 is amended to read as follows:

- (1) (a) Any assisted-living community as defined by KRS 194A.700 ~~or~~ long-term care facility as defined in KRS 216.535~~, or long-term care facility constructed under KRS 216B.071~~ that claims to provide special care for persons with a medical diagnosis of Alzheimer's disease or other brain disorders shall maintain a written and current manual that contains the information specified in subsection (2) of this section. This manual shall be maintained in the office of the community's or facility's director and shall be made available for inspection upon request of any person. The community or facility shall make a copy of any program or service information contained in the manual for a person who requests information about programs or services, at no cost to the person making the request.
- (b) Any advertisement of the community or facility shall contain the following statement: "Written information relating to this community's or facility's services and policies is available upon request."
- (c) The community or facility shall post a statement in its entrance or lobby as follows: "Written information relating to this community's or facility's services and policies is available upon request."
- (2) The community or facility shall maintain and update written information on the following:
 - (a) The assisted-living community's or long-term care facility's mission or philosophy statement concerning the needs of residents with Alzheimer's disease or other brain disorders;
 - (b) The process and criteria the assisted-living community or long-term care facility uses to determine placement into services for persons with Alzheimer's disease or other brain disorders;
 - (c) The process and criteria the assisted-living community or long-term care facility uses to transfer or discharge persons from special services for Alzheimer's or other brain disorders;
 - (d) The supervision provided for residents with a medical diagnosis of Alzheimer's disease or other brain disorders;
 - (e) The family's role in care;
 - (f) The process for assessing, planning, implementing, and evaluating the plan of care for persons with Alzheimer's disease or other brain disorders;
 - (g) A description of any special care services for persons with Alzheimer's disease or other brain disorders;
 - (h) Any costs associated with specialized services for Alzheimer's disease or other brain disorders; and
 - (i) A description of dementia or other brain disorder-specific staff training that is provided, including but not limited to the content of the training, the number of offered and required hours of training, the schedule for training, and the staff who are required to complete the training.
- (3) An assisted-living community may request a waiver from the Cabinet for Health and Family Services regarding building requirements to address the specialized needs of individuals with Alzheimer's disease or other brain disorders.

➔Section 9. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

- (1) "Abortion facility" means any place in which an abortion is performed;
- (2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;
- (3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; and the

cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;

- (4) (a) "Ambulatory surgical center" means a health facility:
 1. Licensed pursuant to administrative regulations promulgated by the cabinet;
 2. That provides outpatient surgical services, excluding oral or dental procedures; and
 3. Seeking recognition and reimbursement as an ambulatory surgical center from any federal, state, or third-party insurer from which payment is sought.
- (b) An ambulatory surgical center does not include the private offices of physicians where in-office outpatient surgical procedures are performed as long as the physician office does not seek licensure, certification, reimbursement, or recognition as an ambulatory surgical center from a federal, state, or third-party insurer.
- (c) Nothing in this subsection shall preclude a physician from negotiating enhanced payment for outpatient surgical procedures performed in the physician's private office so long as the physician does not seek recognition or reimbursement of his or her office as an ambulatory surgical center without first obtaining a certificate of need or license required under KRS 216B.020 and 216B.061;
- (5) "Applicant" means any physician's office requesting a major medical equipment expenditure *exceeding the capital expenditure minimum* ~~of one million five hundred thousand dollars (\$1,500,000) or more after July 15, 1996, adjusted annually~~, or any person, health facility, or health service requesting a certificate of need or license;
- (6) "Cabinet" means the Cabinet for Health and Family Services;
- (7) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:
 - (a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or
 - (b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;
- (8) "Capital expenditure minimum" means *the annually adjusted amount set by the cabinet* ~~one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter~~. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;
- (9) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;
- (10) "Certified surgical assistant" means a certified surgical assistant or certified first assistant who is certified by the National Surgical Assistant Association on the Certification of Surgical Assistants, the Liaison Council on Certification of Surgical Technologists, or the American Board of Surgical Assistants. The certified surgical assistant is an unlicensed health-care provider who is directly accountable to a physician licensed under KRS Chapter 311 or, in the absence of a physician, to a registered nurse licensed under KRS Chapter 314;
- (11) "Continuing care retirement community" means a community that provides, on the same campus, a continuum of residential living options and support services to persons sixty (60) years of age or older under a written agreement. The residential living options shall include independent living units, nursing home beds, and either assisted living units or personal care beds;
- (12) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;
- (13) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include but shall not be limited to health facilities and health services commonly referred to as hospitals,

psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, ~~tuberculosis hospitals, skilled nursing facilities,~~ nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, ~~primary care centers, rural health clinics,~~ outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community **mental health** centers ~~for mental health or individuals with an intellectual disability,~~ home health agencies, kidney disease treatment centers and freestanding hemodialysis units, ~~facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need,~~ and others providing similarly organized services regardless of nomenclature;

- (14) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;
- (15) "Independent living" means the provision of living units and supportive services, including but not limited to laundry, housekeeping, maintenance, activity direction, security, dining options, and transportation;
- (16) "Intraoperative surgical care" includes the practice of surgical assisting in which the certified surgical assistant or physician assistant is working under the direction of the operating physician as a first or second assist, and which may include the following procedures:
 - (a) Positioning the patient;
 - (b) Preparing and draping the patient for the operative procedure;
 - (c) Observing the operative site during the operative procedure;
 - (d) Providing the best possible exposure of the anatomy incident to the operative procedure;
 - (e) Assisting in closure of incisions and wound dressings; and
 - (f) Performing any task, within the role of an unlicensed assistive person, or if the assistant is a physician assistant, performing any task within the role of a physician assistant, as required by the operating physician incident to the particular procedure being performed;
- (17) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. ~~For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars (\$1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter.~~ In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;
- (18) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;
- (19) "Nonclinically related expenditures" means expenditures for:
 - (a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or
 - (b) Projects which do not involve the provision of direct clinical patient care, including but not limited to the following:
 - 1. Parking facilities;
 - 2. Telecommunications or telephone systems;
 - 3. Management information systems;
 - 4. Ventilation systems;
 - 5. Heating or air conditioning, or both;
 - 6. Energy conservation; or
 - 7. Administrative offices;
- (20) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;

- (21) "Perioperative nursing" means a practice of nursing in which the nurse provides preoperative, intraoperative, and postoperative nursing care to surgical patients;
- (22) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;
- (23) "Physician assistant" means the same as the definition provided in KRS 311.550;
- (24) "Record" means, as applicable in a particular proceeding:
 - (a) The application and any information provided by the applicant at the request of the cabinet;
 - (b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;
 - (c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;
 - (d) Any staff reports or recommendations prepared by or for the cabinet;
 - (e) Any recommendation or decision of the cabinet;
 - (f) Any testimony or documentary evidence adduced at a hearing;
 - (g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and
 - (h) Any other items required by administrative regulations promulgated by the cabinet;
- (25) "Registered nurse first assistant" means one who:
 - (a) Holds a current active registered nurse licensure;
 - (b) Is certified in perioperative nursing; and
 - (c) Has successfully completed and holds a degree or certificate from a recognized program, which shall consist of:
 - 1. The Association of Operating Room Nurses, Inc., Core Curriculum for the registered nurse first assistant; and
 - 2. One (1) year of postbasic nursing study, which shall include at least forty-five (45) hours of didactic instruction and one hundred twenty (120) hours of clinical internship or its equivalent of two (2) college semesters.

A registered nurse who was certified prior to 1995 by the Certification Board of Perioperative Nursing shall not be required to fulfill the requirements of paragraph (c) of this subsection;
- (26) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (27) "Sexual assault examination facility" means a licensed health facility, emergency medical facility, primary care center, or a children's advocacy center or rape crisis center that is regulated by the Cabinet for Health and Family Services, and that provides sexual assault examinations under KRS 216B.400;
- (28) "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;
- (29) "Substantial change in a health service" means:
 - (a) The addition of a health service for which there are review criteria and standards in the state health plan; *or*
 - (b) The addition of a health service subject to licensure under this chapter; ~~or~~
 - ~~(c) The reduction or termination of a health service which had previously been provided in the health facility;~~
- (30) "Substantial change in bed capacity" means the addition *or* ~~reduction, relocation, or redistribution~~ of beds by licensure classification within a health facility;
- (31) "Substantial change in a project" means a change made to a pending or approved project which results in:
 - (a) A substantial change in a health service, except a reduction or termination of a health service;

- (b) A substantial change in bed capacity, except for reductions;
 - (c) A change of location; or
 - (d) An increase in costs greater than the allowable amount as prescribed by regulation;
- (32) "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one (1) person from another person;
- (33) "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;
- (34) "To establish" means to construct, develop, or initiate a health facility;
- (35) "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and
- (36) "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

➔Section 10. KRS 216B.020 is amended to read as follows:

- (1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to abortion facilities as defined in KRS 216B.015; any hospital which does not charge its patients for hospital services and does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government; assisted living residences; family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services ~~operating~~^{licensed} as nursing pools; group homes; licensed residential crisis stabilization units~~[- which may be part of a licensed psychiatric hospital]~~; licensed free-standing residential substance use disorder treatment programs with sixteen (16) or fewer beds, but not including Levels I and II psychiatric residential treatment facilities or licensed psychiatric inpatient beds; outpatient behavioral health treatment, but not including partial hospitalization programs; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including but not limited to wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically related expenditures; nursing home beds that shall be exclusively limited to on-campus residents of a certified continuing care retirement community; home health services provided by a continuing care retirement community to its on-campus residents; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital; ***the relocation of acute care beds which occur among acute care hospitals under common ownership and which are located in the same area development district so long as there is no substantial change in services and the relocation does not result in the establishment of a new service at the receiving hospital for which a certificate of need is required; the redistribution of beds by licensure classification within an acute care hospital so long as the redistribution does not increase the total licensed bed capacity of the hospital;*** residential hospice facilities established by licensed hospice programs; or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars (\$600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.
- (2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

- (a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts, except any physician's office that meets the criteria set forth in KRS 216B.015(5) or that meets the definition of an ambulatory surgical center as set out in KRS 216B.015;
 - (b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; unless the physician's office meets the criteria set forth in KRS 216B.015(5), or unless the physician's office is also an abortion facility as defined in KRS 216B.015, except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;
 - (c) *Outpatient health facilities or health services that:*
 - 1. *Do not provide services or hold patients in the facility after midnight; and*
 - 2. *Are exempt from certificate of need and licensure under subsection (3) of this section;*
 - (d) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;
 - ~~(e)(4)~~ Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Department of Veterans Affairs for boarding services;
 - ~~(f)(e)~~ The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and
 - ~~(g)(4)~~ On-duty police and fire department personnel assisting in emergency situations by providing first aid or transportation when regular emergency units licensed to provide first aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.
- (3) *The following outpatient categories of care shall be exempt from certificate of need and licensure on the effective date of this Act:*
- (a) *Primary care centers;*
 - (b) *Special health clinics, unless the clinic provides pain management services and is located off the campus of the hospital that has majority ownership interest;*
 - (c) *Specialized medical technology services, unless providing a State Health Plan service;*
 - (d) *Retail-based health clinics and ambulatory care clinics that provide non-emergency, non-invasive treatment of patients;*
 - (e) *Ambulatory care clinics treating minor illnesses and injuries;*
 - (f) *Mobile health services, unless providing a service in the State Health Plan;*
 - (g) *Rehabilitation agencies;*
 - (h) *Rural health clinics; and*
 - (i) *Off-campus, hospital-acquired physician practices.*
- (4) *The exemption established by subsections (2) and (3) of this section shall not apply to the following categories of care:*
- (a) *An ambulatory surgical center as defined by KRS 216B.015(4);*
 - (b) *A health facility or health service that provides one (1) of the following types of services:*
 - 1. *Cardiac catheterization;*
 - 2. *Megavoltage radiation therapy;*
 - 3. *Adult day health care;*
 - 4. *Behavioral health services;*

5. *Chronic renal dialysis;*
 6. *Birthing services; or*
 7. *Emergency services above the level of treatment for minor illnesses or injuries;*
- (c) *A pain management facility as defined by KRS 218A.175(1);*
 - (d) *An abortion facility that requires licensure pursuant to KRS 216B.0431; or*
 - (e) *A health facility or health service that requests an expenditure that exceeds the major medical expenditure minimum.*
- (5) An existing facility licensed as ~~an~~~~skilled nursing,~~ intermediate care~~,~~ or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of ~~an~~~~skilled nursing,~~ intermediate care~~,~~ or nursing home to the nursing facility licensure category.
- ~~{(4) Notwithstanding any other provision of law to the contrary, dual license acute care beds licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996, may be converted to nursing facility beds by December 31, 1996, without applying for a certificate of need. Any dual license acute care beds not converted to nursing facility beds by December 31, 1996, shall, as of January 1, 1997, be converted to licensed acute care beds.~~
- ~~(5) Notwithstanding any other provision of law to the contrary, no dual license acute care beds or acute care nursing home beds that have been converted to nursing facility beds pursuant to the provisions of subsection (3) of this section may be certified as Medicaid eligible after December 31, 1995, without the written authorization of the secretary.~~
- ~~(6) Notwithstanding any other provision of law to the contrary, total dual license acute care beds shall be limited to those licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996. No acute care hospital may obtain a new dual license for acute care beds unless the hospital had a licensure application filed and in process prior to February 10, 1996.~~
- ~~(6){(7)}~~ Ambulance services owned and operated by a city government, which propose to provide services in coterminous cities outside of the ambulance service's designated geographic service area, shall not be required to obtain a certificate of need if the governing body of the city in which the ambulance services are to be provided enters into an agreement with the ambulance service to provide services in the city.
- ~~(7){(8)}~~ Notwithstanding any other provision of law, a continuing care retirement community's nursing home beds shall not be certified as Medicaid eligible unless a certificate of need has been issued authorizing applications for Medicaid certification. The provisions of subsection ~~(5){(3)}~~ of this section notwithstanding, a continuing care retirement community shall not change the level of care licensure status of its beds without first obtaining a certificate of need.

➔Section 11. KRS 216B.035 is amended to read as follows:

- (1) The cabinet shall hire any administrative staff required by the cabinet to carry out its duties and functions under the provisions of this chapter.
- (2) The secretary shall keep a full and true record of all the proceedings of the cabinet, of all books and papers ordered filed by the cabinet, and of all exemptions and certificates of need issued by the cabinet *in paper or electronic form*, and shall be responsible to it for the safe custody and preservation of all documents in its possession. The secretary may administer oaths in all parts of the state, where the exercise of that power is properly incidental to the performance of the duties of the cabinet under this chapter.

➔Section 12. KRS 216B.040 is amended to read as follows:

- (1) The cabinet shall have four (4) separate and distinct functions in administering this chapter:
 - (a) To approve or deny certificates of need in accordance with the provisions of this chapter, except as to those applications which have been granted nonsubstantive review status by the cabinet;
 - (b) To issue and to revoke certificates of need;
 - (c) To provide a due process hearing and issue a final determination on all actions by the cabinet to deny, revoke, modify, or suspend licenses of health facilities and health services issued by the cabinet; and

- (d) To enforce, through legal actions on its own motion, the provisions of this chapter and its orders and decisions issued pursuant to its functions.
- (2) The cabinet shall:
 - (a) Promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A:
 - 1. To establish the certificate of need review procedures, including but not limited to, application procedures, notice provisions, procedures for review of completeness of applications, and timetables for review cycles.
 - 2. To establish criteria for issuance and denial of certificates of need which shall be limited to the following considerations:
 - a. Consistency with plans. Each proposal approved by the cabinet shall be consistent with the state health plan, and shall be subject to biennial budget authorizations and limitations, and with consideration given to the proposal's impact on health care costs in the Commonwealth. The state health plan shall contain a need assessment for long-term care beds, which shall be based on a statistically valid analysis of the present and future needs of the state as a whole and counties individually. The need assessment shall be applied uniformly to all areas of the state. The methodology shall be reviewed and updated on an annual basis. The long-term care bed need criteria in the state health plan or as set forth by the appropriate certificate of need authority shall give preference to conversion of personal care beds and acute care beds to nursing facility beds, so long as the state health plan or the appropriate certificate of need authority establishes a need in the affected counties and the proposed conversions are more cost-effective than new construction. The fact that the state health plan shall not address the specific type of proposal being reviewed shall not constitute grounds for disapproval of the proposal. Notwithstanding any other provision of law, the long-term care bed need criteria in the state health plan or as set forth by the appropriate certificate of need authority shall not consider, factor in, or include any continuing care retirement community's nursing home beds established under KRS 216B.015, 216B.020, 216B.330, and 216B.332;
 - b. Need and accessibility. The proposal shall meet an identified need in a defined geographic area and be accessible to all residents of the area. A defined geographic area shall be defined as the area the proposal seeks to serve, including its demographics, and shall not be limited to geographical boundaries;
 - c. Interrelationships and linkages. The proposal shall serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state, accompanied by assurance of effort to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system;
 - d. Costs, economic feasibility, and resources availability. The proposal, when measured against the cost of alternatives for meeting needs, shall be judged to be an effective and economical use of resources, not only of capital investment, but also ongoing requirements for health manpower and operational financing;
 - e. Quality of services. The applicant shall be prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements assuring the provision of quality health care services, as established by the cabinet;
 - f. Hospital-based skilled nursing, intermediate care, and personal care beds shall be considered by the cabinet in determining the need for freestanding long-term care beds.
 - (b) Conduct public hearings, as requested, in respect to certificate-of-need applications, revocations of certificates of need, and denials, suspensions, modifications, or revocations of licenses.
- (3) The cabinet may:
 - (a) Issue other administrative regulations necessary for the proper administration of this chapter;
 - (b) Administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the cabinet, and the process shall extend to all parts of the

Commonwealth. Service of process in all proceedings brought before or initiated by the cabinet may be made by certified mail, or in the same manner as other process in civil cases, as the cabinet directs;

- (c) Establish by promulgation of administrative regulation under KRS Chapter 13A reasonable application fees for certificates of need;
- (d) ~~{Appoint technical advisory committees as are deemed necessary to administer its functions under the provisions of this chapter;~~
- ~~(e)~~ Establish a mechanism for issuing advisory opinions to prospective applicants for certificates of need regarding the requirements of a certificate of need; and
- ~~(e){(f)}~~ Establish a mechanism for biennial review of projects for compliance with the terms of the certificate of need.

➔Section 13. KRS 216B.055 is amended to read as follows:

Notice of decisions and orders made by the cabinet under the provisions of this chapter shall be made by certified mail addressed to the last known address on file with the cabinet, ~~for~~ by personal service, **or other method of delivery which may include electronic service**. The notice shall be mailed, or personal service **or other method of delivery** shall be obtained, no later than fifteen (15) working days after the decision or order. Notice shall be complete and effective upon mailing **or delivery**.

➔Section 14. KRS 216B.105 is amended to read as follows:

- (1) Unless otherwise provided in this chapter, no person shall operate any health facility in this Commonwealth without first obtaining a license issued by the cabinet, which license shall specify the kind or kinds of health services the facility is authorized to provide. A license shall not be transferable and shall be issued for a specific location and, if specified, a designated geographical area.
- (2) The cabinet may deny, revoke, modify, or suspend a license in any case in which it finds that there has been a substantial failure to comply with the provisions of this chapter or the administrative regulations promulgated hereunder. The denial, revocation, modification, or suspension shall be effected by mailing to the applicant or licensee, by certified mail **or other method of delivery which may include electronic service**, a notice setting forth the particular reasons for the action. The denial, revocation, modification, or suspension shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee, within the thirty (30) day period, shall file a request in writing for a hearing with the cabinet.
- (3) The hearing shall be before a person designated to serve as hearing officer by the secretary.
- (4) Within thirty (30) days from the conclusion of the hearing, the findings and recommendations of the hearing officer shall be transmitted to the cabinet, with a synopsis of the evidence contained in the record and a statement of the basis of the hearing officer's findings. The applicant or licensee shall be entitled to be represented at the hearing in person or by counsel, or both, and shall be entitled to introduce testimony by witnesses or, if the cabinet so permits, by depositions. A full and complete record shall be kept of all hearings, and all testimony shall be reported but need not be transcribed unless the decision is appealed pursuant to this chapter. The cabinet may adopt the hearing officer's findings and recommendations or prepare written findings of fact and state the basis for its decision which shall become part of the record of the proceedings.
- (5) All decisions revoking, suspending, modifying or denying licenses shall be made by the cabinet in writing. The cabinet shall notify the applicant or licensee of the decision.
- (6) The decision of the cabinet shall be final for purposes of judicial appeal upon notice of the cabinet's decision.

➔Section 15. KRS 314.027 is amended to read as follows:

- (1) Funding for the Kentucky nursing incentive scholarship fund shall be supplied partly by funds received from penalties and fines, to include, but not be limited to, certificate of need penalties assessed on ~~{primary care centers, hospitals, nursing facilities, and skilled and intermediate care}~~ nursing homes, **personal care homes, and family care homes** under the provisions of KRS 216.560 and 216B.131(2).
- (2) Additional funding shall be provided by an assessment of five dollars (\$5) to be added to each nurse licensure renewal application fee payable to the board, proceeds of which shall be annually allocated to the Kentucky nursing incentive scholarship fund.
- (3) The board may cancel any contract between it and any applicant or recipient upon failure by the applicant or recipient to meet requirements of KRS 314.025 to 314.027 or board administrative regulations. Failure to

complete the terms of the contract shall subject the applicant to legal action for the recovery of all assistance provided, together with attorney fees and interest at a compound rate of eight percent (8%) from the date of disbursement from the Kentucky nursing incentive scholarship fund.

➔Section 16. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the president of the State Board of Medical Licensure;
- (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- (4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;
- (5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;
- (6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;
- (8) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verifiable information in the application to the executive director to be qualified and eligible therefor;
- (9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;
- (10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
- (11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the domestic administration of family remedies, the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter, the use of automatic external defibrillators in accordance with the provisions of KRS 311.665 to 311.669, the practice of podiatry as defined in KRS 311.380, ~~the practice of a midlevel health care practitioner as defined in KRS 216.900,~~ the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the practice of genetic counseling as defined in KRS 311.690, the performance of duties for which they have been trained by paramedics licensed under KRS Chapter 311A, first responders, or emergency medical technicians certified under Chapter 311A, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health and Family Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;
- (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- (13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;
- (14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;
- (15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;
- (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

- (17) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education;
- (18) "Order" means a direction of the board or its panels made or entered in writing that determines some point or directs some step in the proceeding and is not included in the final order;
- (19) "Agreed order" means a written document that includes but is not limited to stipulations of fact or stipulated conclusions of law that finally resolves a grievance, a complaint, or a show cause order issued informally without expectation of further formal proceedings in accordance with KRS 311.591(6);
- (20) "Final order" means an order issued by the hearing panel that imposes one (1) or more disciplinary sanctions authorized by this chapter;
- (21) "Letter of agreement" means a written document that informally resolves a grievance, a complaint, or a show cause order and is confidential in accordance with KRS 311.619;
- (22) "Letter of concern" means an advisory letter to notify a physician that, although there is insufficient evidence to support disciplinary action, the board believes the physician should modify or eliminate certain practices and that the continuation of those practices may result in action against the physician's license;
- (23) "Motion to revoke probation" means a pleading filed by the board alleging that the licensee has violated a term or condition of probation and that fixes a date and time for a revocation hearing;
- (24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter 13B to determine whether the licensee has violated a term or condition of probation;
- (25) "Chronic or persistent alcoholic" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic consumption of alcoholic beverages resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of alcoholic beverages;
- (26) "Addicted to a controlled substance" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic use of any narcotic drug or controlled substance resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of any narcotic drug or controlled substance;
- (27) "Provisional permit" means a temporary permit issued to a licensee engaged in the active practice of medicine within this Commonwealth who has admitted to violating any provision of KRS 311.595 that permits the licensee to continue the practice of medicine until the board issues a final order on the registration or reregistration of the licensee;
- (28) "Fellowship training license" means a license to practice medicine or osteopathy in a fellowship training program as specified by the license; and
- (29) "Special faculty license" means a license to practice medicine that is limited to the extent that this practice is incidental to a necessary part of the practitioner's academic appointment at an accredited medical school program or osteopathic school program and any affiliated institution for which the medical school or osteopathic school has assumed direct responsibility.

➔Section 17. KRS 205.560 is amended to read as follows:

- (1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including but not limited to the following categories, except where the aid is for the purpose of obtaining an abortion:

- (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
- (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
- (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include products for the treatment of inborn errors of metabolism or genetic, gastrointestinal, and food allergic conditions, consisting of therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified food products that are medically indicated for therapeutic treatment and are administered under the direction of a physician, and include but are not limited to the following conditions:
 - 1. Phenylketonuria;
 - 2. Hyperphenylalaninemia;
 - 3. Tyrosinemia (types I, II, and III);
 - 4. Maple syrup urine disease;
 - 5. A-ketoacid dehydrogenase deficiency;
 - 6. Isovaleryl-CoA dehydrogenase deficiency;
 - 7. 3-methylcrotonyl-CoA carboxylase deficiency;
 - 8. 3-methylglutaconyl-CoA hydratase deficiency;
 - 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
 - 10. B-ketothiolase deficiency;
 - 11. Homocystinuria;
 - 12. Glutaric aciduria (types I and II);
 - 13. Lysinuric protein intolerance;
 - 14. Non-ketotic hyperglycinemia;
 - 15. Propionic acidemia;
 - 16. Gyrate atrophy;
 - 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
 - 18. Carbamoyl phosphate synthetase deficiency;
 - 19. Ornithine carbamoyl transferase deficiency;
 - 20. Citrullinemia;
 - 21. Arginosuccinic aciduria;
 - 22. Methylmalonic acidemia;
 - 23. Argininemia;
 - 24. Food protein allergies;
 - 25. Food protein-induced enterocolitis syndrome;
 - 26. Eosinophilic disorders; and
 - 27. Short bowel syndrome;
- (d) Physician, podiatric, and dental services;
- (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

- (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;
 - (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;
 - (h) ~~{Services provided by health care delivery networks as defined in KRS 216.900;~~
 - ~~(i) — Services provided by midlevel health care practitioners as defined in KRS 216.900; and~~
 - ~~(j) —~~ Smoking cessation treatment interventions or programs prescribed by a physician, advanced practice registered nurse, physician assistant, or dentist, including but not limited to counseling, telephone counseling through a quitline, recommendations to the recipient that smoking should be discontinued, and prescription and over-the-counter medications and nicotine replacement therapy approved by the United States Food and Drug Administration for smoking cessation.
- (2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health and Family Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health and Family Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:
- (a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;
 - (b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health and Family Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;
 - (c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;
 - (d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health and Family Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;
 - (e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services; and
 - (f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the

type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.
- (4) The rules and regulations of the Cabinet for Health and Family Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.
- (5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.
- (6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.
- (7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced practice registered nurse licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.
- (8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the intellectually disabled exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the intellectually disabled through community mental health centers.
- (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.
- (10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.
- (11) The Cabinet for Health and Family Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.
- (12) (a) The Medical Assistance Program shall use the appropriate form and guidelines for enrolling those providers applying for participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312, 314, 315, and 320, any facility required to be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A. A Medicaid managed care organization shall use the forms and guidelines established under KRS 304.17A-545(5) to credential a provider. For any provider who contracts with and is credentialed by a Medicaid managed care organization prior to enrollment, the cabinet shall complete the enrollment process and deny, or approve and issue a Provider Identification Number (PID) within fifteen (15) business days from the time all necessary completed enrollment forms have been submitted and all outstanding accounts receivable have been satisfied.

- (b) Within forty-five (45) days of receiving a correct and complete provider application, the Department for Medicaid Services shall complete the enrollment process by either denying or approving and issuing a Provider Identification Number (PID) for a behavioral health provider who provides substance use disorder services, unless the department notifies the provider that additional time is needed to render a decision for resolution of an issue or dispute.
 - (c) Within forty-five (45) days of receipt of a correct and complete application for credentialing by a behavioral health provider providing substance use disorder services, a Medicaid managed care organization shall complete its contracting and credentialing process, unless the Medicaid managed care organization notifies the provider that additional time is needed to render a decision. If additional time is needed, the Medicaid managed care organization shall not take any longer than ninety (90) days from receipt of the credentialing application to deny or approve and contract with the provider.
 - (d) A Medicaid managed care organization shall adjudicate any clean claims submitted for a substance use disorder service from an enrolled and credentialed behavioral health provider who provides substance use disorder services in accordance with KRS 304.17A-700 to 304.17A-730.
 - (e) The Department of Insurance may impose a civil penalty of one hundred dollars (\$100) per violation when a Medicaid managed care organization fails to comply with this section. Each day that a Medicaid managed care organization fails to pay a claim may count as a separate violation.
- (13) Dentists licensed under KRS Chapter 313 shall be excluded from the requirements of subsection (12) of this section. The Department for Medicaid Services shall develop a specific form and establish guidelines for assessing the credentials of dentists applying for participation in the Medical Assistance Program.

➔Section 18. The following KRS sections are repealed:

- 216.600 Pilot project to provide preventive oral care services to nursing home residents.
- 216.860 Definitions for KRS 216.865.
- 216.865 Licensing required -- Administrative regulations.
- 216.900 Definitions for KRS 216.900 to 216.930.
- 216.905 Network license required.
- 216.910 Powers and duties of network.
- 216.915 Administrative regulations.
- 216.930 Linkage agreements.
- 216B.071 Long-term care facilities for patients with Alzheimer's disease exempt from certificate of need.
- 216B.120 Judicial appeals -- Bonds -- Costs.
- 216B.176 School-located health care or dental care programs provided by not-for-profit primary care centers at public school or Head Start program.
- 216B.177 Moratorium -- Establishment of additional satellite school-based health care programs.

Signed by Governor April 10, 2018.

CHAPTER 144

(HB 463)

AN ACT relating to pharmacy benefits.

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

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Cost sharing" means the cost to an individual insured under a health benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan;*
 - (b) *"Insurer" includes:*
 - 1. *An insurer offering a health benefit plan providing coverage for pharmacy benefits; or*
 - 2. *Any other administrator of pharmacy benefits under a health benefit plan;*
 - (c) *"Pharmacy" includes:*
 - 1. *A pharmacy, as defined in KRS Chapter 315;*
 - 2. *A pharmacist, as defined in KRS Chapter 315; or*
 - 3. *Any employee of a pharmacy or pharmacist; and*
 - (d) *"Pharmacy benefit manager" has the same meaning as in KRS 304.17A-161.*
 - (2) *An insurer issuing or renewing a health benefit plan on or after the effective date of this Act or pharmacy benefit manager shall not:*
 - (a) *Require an insured purchasing a prescription drug to pay a cost-sharing amount greater than the amount the insured would pay for the drug if he or she were to purchase the drug without coverage under a health benefit plan;*
 - (b) *Prohibit a pharmacy from discussing any information under subsection (3) of this section; and*
 - (c) *Impose a penalty on a pharmacy for complying with this section.*
 - (3) *A pharmacist shall have the right to provide an insured information regarding the applicable limitations on his or her cost-sharing pursuant to this section for a prescription drug.*
 - (4) *Any amount paid by an insured under subsection (2)(a) of this section shall be attributable toward any annual out-of-pocket maximums under the insured's health benefit plan.*
- ➔Section 2. This Act takes effect January 1, 2019.

Signed by Governor April 10, 2018.

CHAPTER 145

(HB 475)

AN ACT relating to caller identification services.

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

➔Section 1. KRS 367.46955 is amended to read as follows:

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any person making a telephone solicitation *through telecommunications services or interconnected Voice over Internet Protocol or VoIP service* to engage in the following conduct:

- (1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;
- (2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;
- (3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;
- (4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;

- (5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization, or charging a credit card account or making electronic transfer of funds except in conformity with KRS 367.46963;
- (6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;
- (7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;
- (8) Making a telephone solicitation to anyone under eighteen (18) years of age. When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;
- (9) Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an unsolicited telephone solicitation call, ***including but not limited to through the use of telecommunications services or interconnected Voice over Internet Protocol or VoIP, to knowingly cause any caller identification service to transmit misleading or inaccurate caller identification information with the intent to defraud or cause harm to another person or to wrongfully obtain anything of value;***
- (10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;
- (11) Threatening, intimidating, or using profane or obscene language;
- (12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;
- (13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;
- (14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;
- (15) Making or causing to be made an unsolicited telephone solicitation call if the residential number for that telephone appears in the current publication of the national Do Not Call Registry maintained by the United States Federal Trade Commission;
- (16) Making telephone solicitations to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location;
- (17) Selling or making available for economic gain any information revealed during a telephone solicitation without the express written consent of the consumer;
- (18) Making a telephone solicitation to any residential telephone using an artificial or prerecorded voice to deliver a message, unless the call is initiated for emergency purposes by schools regulated by the Kentucky Department of Education or the call is made with the prior express consent of the called party; or
- (19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a telephone solicitation.

➔Section 2. KRS 367.46999 is amended to read as follows:

- (1) Any person, including, but not limited to, a merchant, a telemarketer, a salesperson, agent or representative of the merchant, or an independent contractor, who knowingly violates any provision of KRS 367.46951 to 367.46999 or engages in any act, practice, or course of business which operates or would operate as fraud or deceit upon any person in connection with a sale shall be guilty of a Class D felony, except that any person who violates KRS 367.46955(7) to (16) shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for any subsequent offense.
- (2) ***Notwithstanding any other provision of law, in addition to the penalties provided in this section, any person found guilty of violating subsection (9) of Section 1 of this Act shall:***
 - (a) ***Be fined no less than five hundred dollars (\$500) for the first offense and one thousand dollars (\$1,000) for any subsequent offense; and***
 - (b) ***Pay restitution of any financial benefit secured through conduct proscribed by subsection (9) of Section 1 of this Act.***

- (3) The Office of the Attorney General shall have concurrent enforcement powers as to such felonies and misdemeanors.

Signed by Governor April 10, 2018.

CHAPTER 146

(HB 512)

AN ACT relating to qualifications of officers and declaring an emergency.

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

➔Section 1. KRS 16.040 is amended to read as follows:

- (1) The department shall consist of the commissioner and the number of officers, individuals employed as a Trooper R Class, CVE R Class, and civilians, and shall be organized in the manner as the commissioner from time to time determines.
- (2) All persons appointed as officers shall at the time of their appointment:
 - (a) Be not less than twenty-one (21) years of age;
 - (b) Be of good moral character, and in good health;
 - (c) Be citizens of the United States and residents of the Commonwealth; and
 - (d) Possess;
 1. A minimum of sixty (60) hours of credit, or an associate degree, from an accredited college or university;
 2. A high school diploma with at least two (2) years' experience in the military or in law enforcement; or
 3. A high school diploma or General Educational Development (GED) diploma with additional experience established by the commissioner by administrative regulation promulgated pursuant to KRS Chapter 13A. However, any person appointed under this subparagraph ***who has not completed***~~[shall not be given a duty assignment until he or she meets]~~ the requirements of subparagraph 1. of this paragraph ***prior to the end of probation as described in KRS 16.140(11) shall be discharged.***
- (3) The commissioner shall prescribe minimum physical requirements for appointment as an officer of the department and for individuals employed as a Trooper R Class or CVE R Class, and shall conduct such tests and require such physical examinations as deemed necessary to determine the fitness and qualification of each applicant. All other qualifications being equal, preference shall be given to veterans of the Armed Forces of the United States in time of war, who were honorably discharged.
- (4) The commissioner shall direct an investigation to be conducted in order to determine an applicant's suitability for employment as an officer. The contents of the investigation shall be subject to the Open Records Act, KRS 61.870 to 61.884 and KRS 61.991, except that the identity of any witness or informant involving information relative to this investigation shall remain confidential. The identity of any witness or informant shall be subject to the subpoena power of a court of competent jurisdiction.

➔Section 2. Whereas ensuring that the citizens of Kentucky are protected by qualified troopers is a priority, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 10, 2018.

CHAPTER 147

(HB 527)

AN ACT relating to the educational stability of children in out-of-home placements.

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

➔SECTION 1. A NEW SECTION OF KRS 199.800 TO 199.805 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Best interest of the child" means the determination regarding the enrollment of a child made when considering all factors relating to the best interest of a child, as outlined in 20 U.S.C. secs. 6301 et seq., including but not limited to:*

1. *The benefits to the child of maintaining educational stability;*
2. *The appropriateness of the current educational setting;*
3. *The child's attachment and meaningful relationships with staff and peers at the current educational setting;*
4. *The influence of the school's climate on the child;*
5. *The safety of the child; and*
6. *The proximity of the placement to the school of origin, and how the length of a commute would impact the child;*

(b) *"Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided, that is in the care of the department;*

(c) *"Educational stability" means the maintenance of the enrollment of a child in a particular school upon a transition to a different placement or living arrangement when such maintenance is in the best interest of the child, and if not, the enrollment of the child in a new school in a time and manner that ensures the child experiences a minimal lapse in school attendance; and*

(d) *"School of origin" means the public school in which the child was enrolled immediately prior to placement.*

(2) *In determining the placement of a child under KRS 199.801, the department shall, if practicable, locate a placement within the same school district where the child was most recently enrolled to allow the child to remain enrolled in the school of origin.*

(3) (a) *The department, in consultation with the local education agency, shall make the determination on whether the child shall remain enrolled in the school of origin based on the best interest of the child, weighing the promotion of educational stability as a primary factor.*

(b) *In accordance with 20 U.S.C. secs. 6301 et seq., the cost of transportation shall not be a factor in determining the best interest of a child for an enrollment decision.*

(4) *If the department finds it is in the best interest of a child to remain in the school of origin upon placement of the child in a new school district, reasonable transportation shall be offered from the location of placement to the school of origin in which the child is enrolled for any regularly scheduled school day. In accordance with 20 U.S.C. secs. 6301 et seq., costs incurred by a school district, foster parent, child-placing agency, or child-caring facility for transportation to the school shall be reimbursed by the department upon request.*

(5) *Upon the determination that changing a child's school of enrollment is in the best interest of the child:*

(a) *The child welfare and local education agencies shall collaborate to ensure the immediate and appropriate enrollment of the child;*

(b) *The child's caseworker shall immediately contact the receiving district to enroll the child;*

(c) *In accordance with 20 U.S.C. secs. 6301 et seq., the new school shall immediately enroll the child, even if the child is unable to produce records required for enrollment, including but not limited to:*

1. *Academic records;*

- 2. *Medical records; and*
 - 3. *Proof of residency;*
 - (d) *The new school shall immediately request the records of the child from the child's previous school;*
 - (e) *The previous school shall provide the new school:*
 - 1. *Notwithstanding KRS 159.170, all records within the student information system maintained by the Kentucky Department of Education regarding the child within three (3) working days of receipt of a request made under this subsection; and*
 - 2. *In accordance with KRS 159.170, all remaining records regarding the child within ten (10) working days of receipt of a request made under this subsection;*
 - (f) *The department responsible for the child shall be granted access to all educational records in order to facilitate the proper transfer of the child;*
 - (g) *In accordance with KRS 158.140(1), promotions or credits earned in attendance in any approved public school shall be accepted as valid at the new school; and*
 - (h) *The department, each local education agency, and foster parents shall collaborate to ensure the educational stability of each child.*
 - (6) *The district in which the child is enrolled upon his or her successful completion of all high school graduation requirements shall issue a diploma indicating graduation from high school to the child.*
- ➔Section 2. This Act may be cited as the Uninterrupted Scholars Act of Kentucky.

Signed by Governor April 10, 2018.

CHAPTER 148

(HB 530)

AN ACT relating to personalized license plates.

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

➔Section 1. KRS 186.174 is amended to read as follows:

- (1) For purposes of this section, "personalized license plate" means a license plate issued with personal letters or numbers significant to the applicant and it also means a license plate that is issued under this section and has been combined with a special license plate.
- (2) Any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1), (3)(a), or (4)(a), or any owner or lessee of a motorcycle required to be registered under the provisions of KRS 186.050(2) may obtain a personalized license plate by applying for a personalized license plate in the office of the county clerk and upon payment of the fee required in KRS 186.162. A person initially applying for a personalized license plate shall submit the application and appropriate SF fee in person to the county clerk, but may submit the annual application to renew the personalized license plate and entire fee required in KRS 186.162 by mail to the county clerk.
- (3) (a) *For personalized license plates already issued on the effective date of this Act, renewal applications and fees*~~[for personalized license plates pursuant to this section]~~ *must be received by the Transportation Cabinet on or before September 1, 2018. Except as provided in paragraph (b) of this subsection, personalized license plates that expire December 31, 2018, and are renewed under this subsection, shall then expire on the last day of the birth month of the applicant in 2019 and in each succeeding year. An applicant who renews a plate under this paragraph shall be charged a prorated registration fee based on the number of months the registration is valid for during the year 2019.*
- (b) *Personalized license plates that expire December 31, 2018 and are renewed under this subsection by individuals whose birth months are in January, February, and March shall expire April 30, 2019, and then shall expire on the last day of the birth month of the applicant in each succeeding year. An*

applicant who renews a plate under this paragraph shall be charged a prorated registration fee based on the number of months the registration is valid for during the year 2019.

- (4) *Personalized license plates issued after the effective date of this Act shall expire on the last day of the birth month of the applicant*~~[preceding the year that the plate or renewal is to be issued].~~
- (5) A personalized license plate shall be replaced *on the same schedule as regular issue license plates unless it is damaged or unreadable*~~[annually unless the applicant chooses to receive a renewal registration decal].~~ A county clerk shall immediately forward the application and the fee required in KRS 186.162 for a personalized license plate to the Transportation Cabinet.~~[Personalized plates issued under this section expire December 31 each year.]~~ The initial fee for a personalized license plate that has been combined with special license plate shall be as established in KRS 186.162(3).
- (6)~~(3)~~ A personalized plate shall not be issued that would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in the Commonwealth, and shall not contain a combination of more than six (6) letters of the alphabet and Arabic numerals, including spaces. A personalized plate shall not be issued if the cabinet determines the request fails to comply with the conditions specified in KRS 186.164(9)(c) to (g). The owner or lessee shall submit an application and fee to renew a personalized license plate pursuant to the provisions of ~~subsection (2) of~~ this section. Once an applicant obtains a personalized plate, he or she will have first priority on that plate for each of the following years that he or she makes timely and proper application.

➔Section 2. KRS 186.164 is amended to read as follows:

 - (1) The SF portion of the fee required under KRS 186.162 shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under KRS 186.162 shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in KRS 186.162 on a quarterly basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.
 - (2) A special license plate shall be the color and design selected by the group or organization identified in subsection (13) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.
 - (3) Except as provided in KRS 186.162, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars (\$28), of which the Transportation Cabinet shall receive twenty-five dollars (\$25) and the county clerk shall receive three dollars (\$3), and the total renewal fee shall be fifteen dollars (\$15), of which the Transportation Cabinet shall receive twelve dollars (\$12) and the county clerk shall receive three dollars (\$3). The twenty-five dollar (\$25) initial fee and twelve dollar (\$12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.
 - (4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in KRS 186.041(2) *and* ~~186.042(5) and 186.174(2)~~. A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).
 - (5)
 - (a) If a special license plate issued under this chapter deteriorates to the point that the lettering, numbering, or images on the face of the plate are not legible, the plate shall be replaced free of charge, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.
 - (b) If a special license plate issued under this chapter is lost, stolen, or damaged in an accident, the county clerk shall issue a new plate upon payment of a three dollar (\$3) county clerk fee, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.
 - (6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar (\$3) county clerk fee. If the owner or lessee requests, the county

clerk shall reissue the special plate upon payment of a three dollar (\$3) county clerk fee for use on any other vehicle of the same classification and category owned, leased, or acquired by the person during the current licensing period. If the owner or lessee has the special plate reissued to a vehicle which has been previously registered in this state, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

- (7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a), except a special license plate shall not be issued to a taxicab, limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in KRS 186.168(3). All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in KRS 186.162(3).
- (8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.
- (9) A group wanting to create a special license plate that is not authorized under this chapter on June 20, 2005, shall comply with the following conditions before being eligible to apply for a special license plate:
 - (a) The group shall be nonprofit and based, headquartered, or have a chapter in Kentucky;
 - (b) The group may be organized for, but shall not be restricted to, social, civic, or entertainment purposes;
 - (c) The group, or the group's lettering, logo, image, or message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the person's race, color, religion, sex, or national origin;
 - (d) The group shall not be a political party and shall not have been created primarily to promote a specific political belief;
 - (e) The group shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;
 - (f) The name of the group shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and
 - (g) The group's lettering, logo, image, or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.
- (10) If the cabinet denies to issue a group a special license plate based upon the conditions specified in subsection (9) of this section, the cabinet shall, immediately upon denying to issue a group a special license plate, notify in writing the chairperson of both the House and Senate standing committees on transportation of the denial and the reasons upon which the cabinet based the denial. A person seeking a personalized license plate under KRS 186.174 shall be subject to the conditions specified in subsection (9)(c) to (g) of this section.
- (11) If the cabinet approves a request for a special license plate, the cabinet shall begin designing and printing the plate after the group collects a minimum of nine hundred (900) applications with each application being accompanied by a twenty-five dollar (\$25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently.
- (12) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall forward to the cabinet. The entity that sponsors a special plate established by the process outlined in this section may set a requested donation amount, not to exceed ten dollars (\$10), that will automatically be added to the cost of registration or renewal, unless the individual registering or renewing the vehicle registration opts out of contributing that recommended amount. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified to be used for the declared purpose stated under subsection (13) of this section. The cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall submit

the information required under subsection (13)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of June 20, 2005.

- (13) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (12) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:
 - (a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, then the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (12) of this section is not a state governmental agency, a program unit within a state governmental agency, or is a group or organization that does not have a statewide chapter, then an extra donation for use by the group or organization shall be prohibited;
 - (b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and
 - (c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.
- (14) All funds received by a group or organization under subsection (12) of this section shall be deposited into an account separate from all other accounts the group or organization may have, and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (12) of this section shall be used for the express purpose identified by the group in subsection (13) of this section. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall comply with the provisions of this subsection.
- (15) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:
 - (a) Documentation that will be required to accompany an application for a special license plate to provide proof of:
 - 1. Election to the United States Congress or the Kentucky General Assembly;
 - 2. Election or appointment to the Kentucky Court of Justice;
 - 3. Membership in a Masonic Order, Fraternal Order of Police, or emergency management organization;
 - 4. Eligibility for membership in the Gold Star Mothers of America;
 - 5. Eligibility as a father for associate membership in the Gold Star Mothers of America;
 - 6. Eligibility for membership in the Gold Star Wives of America;
 - 7. Ownership of an amateur radio operator license;
 - 8. Receipt of the Silver Star Medal;
 - 9. Receipt of the Bronze Star Medal awarded for valor;
 - 10. Eligibility for a Gold Star Siblings license plate for a person whose sibling died while serving the country in the United States Armed Forces. For the purposes of this subparagraph, "sibling" means a sibling by blood, a sibling by half-blood, a sibling by adoption, or a stepsibling; or
 - 11. Eligibility for a Gold Star Sons or Gold Star Daughters license plate for a person whose parent or stepparent died while serving the country in the United States Armed Forces;
 - (b) The time schedule permissible for a group or organization to request a design change for the special license plate; and
 - (c) The procedures for review of proposed license plates and the standards by which proposed special license plates are approved or rejected in accordance with subsection (9) of this section.

- (16) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (13) of this section or for administrative or personnel costs in violation of subsection (13) of this section, shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar (\$5,000) fine.

Signed by Governor April 10, 2018.

CHAPTER 149

(HB 586)

AN ACT relating to the maintenance of teacher certification.

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

➔Section 1. KRS 161.095 is amended to read as follows:

- (1) The Education Professional Standards Board, with the advice of the Kentucky Board of Education, shall:
- (a) Promulgate administrative regulations to establish procedures for a teacher to maintain his or her certificate by successfully completing meaningful continuing education;
 - (b) ~~[- The Education Professional Standards Board shall -]~~Develop standards for continuing education related to maintaining a certificate, including university courses, an advanced degree, or a combination of field-based experience, individual research, and approved professional development; **and**
 - (c) ~~[- The Education Professional Standards Board shall -]~~Establish a system of quality assurance related to continuing education activities and certification requirements.
- (2) (a) *The Education Professional Standards Board shall extend the validity period of a certificate of a member of the Armed Forces of the United States of America by one (1) year for each year the member is determined by the board to have been prohibited by military service or training from pursuing an advanced degree or completing professional development required to maintain certification; and*
- (b) *The Education Professional Standards Board shall promulgate administrative regulations to establish an application process and develop guidelines for the process by which education or professional development is considered to have been prohibited by military service.*

Signed by Governor April 10, 2018.

CHAPTER 150

(HB 606)

AN ACT relating to testing for commercial driver's license applicants and making an appropriation therefor.

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

➔Section 1. KRS 281A.160 (Effective January 1, 2019) is amended to read as follows:

- (1) (a) Except as provided in subsection (4) of this section, the State Police shall be responsible for administering both the knowledge and skills test required by KRS 281A.130.
- (b) Applicants who fail the written knowledge test shall be permitted to retake the written test on the next day the tests are administered. Applicants who fail the written test six (6) times shall be required to wait three (3) days before taking the knowledge test again. Applicants who subsequently fail the written test three (3) additional times shall be required to wait three (3) days prior to retaking the test.

- (2) (a) Except as provided for in subsection (3) of this section, at the time a CDL permit is issued:
1. An applicant who has held a Kentucky operator's license for thirty (30) days or longer shall pay a skills-testing fee of fifty dollars (\$50); and
 2. An applicant who has held a Kentucky operator's license for less than thirty (30) days shall pay a skills-testing fee of one hundred fifty dollars (\$150).
- (b) There is created within the State Treasury a trust fund to be known as the State Police CDL skills-testing fund. The fund shall be administered by the State Police and shall receive all skills-testing and retesting fees collected under subsections (2)(a) and ~~(6)(e)-(e)}~~ of this section, in addition to any grants, gifts, or appropriations of state or federal moneys and any interest earned on moneys in the fund. Moneys in the fund shall not lapse and shall be carried forward to the next succeeding fiscal year. The State Police CDL skills-testing fund shall be used by the State Police to contract with and train civilian CDL skills examiners and to improve the logistics of the CDL skills-testing process.
- (c) The State Police, upon request of an applicant who has passed both the vision and knowledge tests, may schedule the applicant for the skills test at the first available test date at a test site designated by the State Police but not less than **fourteen (14)** ~~ten (10)}~~ days after the applicant has filed the application and been issued a CDL permit. Except in extenuating circumstances, a retest for a failed portion of the skills test shall be given within three (3) days of a request of a retest.
- (d) An applicant shall provide a class representative commercial vehicle, for the class of CDL for which the applicant is testing, in which to take the skills test. Unless the State Police grant an exemption at the time the application for testing is made, the vehicle supplied under this paragraph shall be unloaded. Upon arrival for the skills test, the applicant shall have in his or her possession a valid Kentucky operator's license ~~and~~ a valid CDL permit, ~~and a current U.S. Department of Transportation physical exam~~. A CDL-licensed driver who is at least twenty-one (21) years old shall accompany the applicant at all times the applicant is in operation of a commercial vehicle.
- (3) A testing fee shall not be charged to:
- (a) An individual applying for a CDL with an "S" endorsement as defined in KRS 281A.170; **or**
 - (b) ***Military personnel applying for a CDL under KRS 281A.165.***
- (4) The State Police may authorize a third party to administer the skills test specified by this section if:
- (a) The test is the same that would otherwise be administered by the state; and
 - (b) The third party has entered into an agreement with this Commonwealth which complies with requirements of Title 49, Code of Federal Regulations, Part 383.75, as adopted by the Transportation Cabinet.
- (5) The State Police shall promulgate administrative regulations under KRS Chapter 13A that establish procedures that ensure an arm's-length relationship is maintained between a third-party tester and any owner, officer, or employee of any program offering commercial truck driving under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A.
- (6) (a) Applicants shall be permitted to take the skills test for a particular class vehicle an unlimited number of times; however, an applicant shall not retest more than one (1) time in any twenty-four (24) hour period.
- (b) The skills test shall consist of three (3) separate portions: pre-trip inspection, basic maneuvering, and road skills. An applicant must achieve a score of at least eighty percent (80%) on each portion of the skills test before a CDL may be issued to the applicant. An applicant who passes one (1) or more portions of the skills test but does not pass all portions of the skills test shall retest only on those portions of the skills test the applicant failed.
- (c) An applicant who fails any portion of the skills test four (4) times shall be notified by the State Police that the applicant is required to wait one (1) week ~~and pay a retest fee of fifty dollars (\$50)}~~ before retaking a portion of this skills test again.
- (d) Failure of an applicant to notify the State Police ***at least forty-eight (48) hours*** prior to missing an appointment for a skills test, ***or provide a written medical excuse from a licensed physician, advanced registered nurse practitioner, or physician's assistant***, shall be considered a failure, on all parts of the skills test scheduled to be given, for the purposes of determining number of failures, waiting periods, and retesting fees under ~~paragraphs (c) and (e)~~ of this subsection for individual applicants.

The fees for a missed appointment failure shall be forfeited and retained in the State Police CDL skills-testing fund established under this section. If the forty-eight (48) hour notice or medical excuse is given, the fee shall be applied to the rescheduled test. A missed appointment failure under this paragraph shall not be reported as a failure to the board.

- (e) *Except as provided for in paragraph (d) of this subsection, at the time of application for a retest under this subsection, the applicant shall pay a retesting*~~[The provisions of KRS 281A.150 notwithstanding, an application]~~ *fee of fifty dollars (\$50)*~~[shall not be charged for each test that is retaken as a result of a failing score].~~
- (7) An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of less than one (1) year shall pay the reinstatement fee as prescribed by KRS 281A.150(7) and shall receive his or her commercial driver's license with all endorsement and restrictions that were in effect at the time of suspension. An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of one (1) year or more shall submit to the skills, knowledge, and vision tests.
- (8) (a) The commissioner of the Department of Kentucky State Police shall promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A to implement the provisions of this section.
- (b) ~~[Within ninety (90) days of April 22, 2006,]~~The State Police shall promulgate administrative regulations under KRS Chapter 13A to set forth the qualifications for contract examiners retained under subsection (2)(b) of this section.

Signed by Governor April 10, 2018.

CHAPTER 151

(HB 185)

AN ACT relating to death-in-line-of-duty benefits and declaring an emergency.

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

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

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

- (1) "System" means the State Police Retirement System created by KRS 16.505 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.505 to 16.652, and any other amounts the member shall have contributed, including interest credited. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (8) "Creditable compensation":

- (a) Means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4);
 - (b) Includes:
 - 1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
 - 2. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
 - 3. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
 - 4. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and
 - (c) Excludes:
 - 1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board; and
 - 2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;
- (9) "Final compensation" means:
- (a) For a member who begins participating before September 1, 2008, the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or
 - (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;
- (15) "Normal retirement date" means:
 - (a) For a member who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959; or
 - (b) For a member who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22). *Solely in the case of a member who dies as a direct result of an act in line of duty as defined in this section or who dies as a result of a duty-related injury as defined in Section 5 of this Act, "dependent child" also means a naturally or legally adopted disabled child of the member, regardless of the child's age, if the child has been determined to be eligible for federal Social Security disability benefits or is being claimed as a qualifying child for tax purposes due to the child's total and permanent disability;*
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;
- (20) "Early retirement date" means:
 - (a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or
 - (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement

allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;

- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits established by 26 U.S.C. sec. 415;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543;
- (34) "Month" means a calendar month;
- (35) "Membership date" means the date upon which the member began participating in the system as provided by KRS 16.543;
- (36) "Participant" means a member, as defined by subsection (21) of this section, or a retired member, as defined by subsection (11) of this section;
- (37) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (39) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583;~~and~~
- (40) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the combined sum of the member's accumulated contributions and the member's accumulated employer pay credit; **and**
- (41) ***"Monthly average pay" means the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment.***

➔Section 2. KRS 16.601 is amended to read as follows:

- (1) If ~~the death of a member~~ *dies* ~~in service occurs on or after August 1, 1992,~~ as a direct result of an ~~act in line of duty~~ *as defined in Section 1 of this Act and is survived by a spouse*; ~~and the member has on file in the retirement office at the time of his or her death a written designation of only one (1) beneficiary, who is his or her spouse, the beneficiary~~
- (a) *The surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased member's retirement account except as provided in subsection (2)(e) of Section 4 of this Act;*
 - (b)
 1. *The surviving spouse, provided he or she supersedes all previously designated beneficiaries, may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to ~~seventy-five percent (75%)~~ *twenty-five percent (25%)* of the member's monthly ~~average~~ *final rate of* pay beginning in the month following the member's death and continuing each month until *the surviving spouse remarries or until the death* ~~of the unmarried surviving spouse~~;*
 2. *The monthly payment to the surviving spouse upon remarriage shall be twenty-five percent (25%) of the member's monthly average pay beginning in the month following remarriage and continuing each month until death; and*
 - (c) *In addition, if the member is also survived by dependent children, monthly payments shall be made for each dependent child equal to ten percent (10%) of the deceased member's monthly average pay, except that the combined maximum payment made to the:*
 1. *Surviving spouse and dependent children under this subsection shall not exceed one hundred percent (100%) of the deceased member's monthly average pay; and*
 2. *Dependent children, while the surviving spouse is living or prior to the surviving spouse remarrying, shall not exceed twenty-five percent (25%) of the deceased member's monthly average pay. Payments made to the dependent children under this subsection shall be divided equally among all the dependent children.*
- (2) *If a member dies as a result of an act in line of duty as defined in Section 1 of this Act and is not survived by a spouse but is survived by a dependent child or children, the following benefits shall be paid to the dependent child or children:*
- (a) *Fifty percent (50%) of the deceased member's monthly average pay, if the deceased member has one (1) dependent child;*
 - (b) *Sixty-five percent (65%) of the deceased member's monthly average pay, if the deceased member has two (2) dependent children; or*
 - (c) *Seventy-five percent (75%) of the deceased member's monthly average pay, if the deceased member has three (3) or more dependent children.*

Payments made to the dependent children under this subsection shall be divided equally among all the dependent children.

- (3) If ~~the death of a member~~ *dies* ~~in service occurs on or after July 1, 1968,~~ as a direct result of an ~~act in line of duty~~ *as defined in Section 1 of this Act* and the member has on file in the retirement office at the time of his or her death a written designation of only one (1) beneficiary other than his or her spouse **who has not been superseded by the surviving spouse as provided by subsection (1)(a) of this section,** and who is a dependent receiving at least one-half (1/2) of his or her support from the deceased member, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars (\$10,000).
- (4)~~(3)~~ ~~[In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due.]~~ The payments *provided by this section* shall commence in the month following the date of death of the member and shall be payable to the *spouse, dependent children*, beneficiaries, or to a legally appointed guardian or as directed by the system. Benefits *to a dependent child under this section* shall be payable ~~under this subsection~~ notwithstanding an election by a *surviving spouse or* beneficiary to withdraw the deceased member's accumulated account balance as provided in KRS 61.625 or *to elect* benefits under any other provisions of KRS 16.510 to 16.652.

- (5)~~(4)~~ A **surviving spouse or** beneficiary eligible for benefits under subsection (1) or (3)~~(2)~~ of this section who is also eligible for benefits under any other provisions of KRS 16.510 to 16.652 may elect benefits under this section or any other section of KRS 16.510 to 16.652 but cannot elect to receive both.
- (6)~~(5)~~ (a) A **surviving spouse or** beneficiary applying for benefits under subsection (1) or (3)~~(2)~~ of this section who is also eligible for benefits under KRS 16.578 may elect to receive benefits under KRS 16.578(2)(a) or (b) while the application for benefits under subsection (1) or (3)~~(2)~~ of this section is pending.
- (b) If a final determination results in a finding of eligibility for benefits under subsection (1) or (3)~~(2)~~ of this section, the system shall recalculate the benefits due the **surviving spouse or** beneficiary in accordance with this subsection.
- (c) If the **surviving spouse or** beneficiary has been paid less than the amount of benefits to which the **surviving spouse or** beneficiary was entitled to receive under this section, the system shall pay the additional funds due to the **surviving spouse or** beneficiary.
- (d) If the **surviving spouse or** beneficiary has been paid more than the amount of benefits to which the **surviving spouse or** beneficiary was entitled to receive under this section, the system shall deduct the amount overpaid to the **surviving spouse or** beneficiary from the ten thousand dollars (\$10,000) lump-sum payment and from the monthly retirement allowance payments until the amount owed to the systems has been recovered.

➔Section 3. KRS 61.510 is amended to read as follows:

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

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the

General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation":
- (a) Means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);
- (b) Includes:
1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
 2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
 3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
 4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
 5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and
- (c) Excludes:
1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;
 2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time; and
 3. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer;
- (14) "Final compensation" of a member means:
- (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5)

fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
 - (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
 - (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
 - (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
 - (16) "Retirement allowance" means the retirement payments to which a member is entitled;
 - (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
 - (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;

- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months and are nonrenewable;
 - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
 - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to KRS 61.522;
- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period;

- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;
- (35) "Month" means a calendar month;
- (36) "Membership date" means:
 - (a) The date upon which the member began participating in the system as provided in KRS 61.543; or
 - (b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);
- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (41) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (42) "Volunteer" means an individual who:
 - (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and

- (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date;~~and~~
- (43) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection; **and**
- (44) ***"Monthly average pay" means the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment.***

➔Section 4. KRS 61.542 is amended to read as follows:

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

- (a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;
 - (b) If the principal beneficiary is one (1) person and is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;
 - (c) If the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries;~~{and}~~
 - (d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary; **and**
 - (e) ***If the member dies as a direct result of an act in line of duty as defined in Section 1 of this Act or dies as a result of a duty-related injury as defined in Section 5 of this Act, the surviving spouse shall supersede all previously designated principal or contingent beneficiaries, unless the deceased member files a valid beneficiary designation form with the retirement office after the date of marriage to the surviving spouse.***
- (3) Prior to the first day of the month in which the member would have received his or her first retirement allowance, a monthly benefit payable for life shall not be offered if the beneficiary designated under subsection (1) of this section is more than one (1) person, the member's estate, or a trust.
- (4) When a notification of retirement has been filed at the retirement office:
- (a) The designation of beneficiary on the notification of retirement shall supersede the designation of all previous beneficiaries;
 - (b) The beneficiary designated by the member on the member's notification of retirement shall be one (1) person, the member's estate, or a trust; and
 - (c) If the death of the beneficiary named on the notification of retirement precedes the first day of the month in which the member receives his or her first retirement allowance, the member may designate another beneficiary on the member's notification of retirement.
- (5) On or after the first day of the month in which the member receives his or her first retirement allowance, the member shall not have the right to change his beneficiary, except that:
- (a) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member;
 - (b) The estate of the retired member becomes the beneficiary if the retired member had designated a person as beneficiary who was the spouse or who later married the member and they were divorced on the date of the retired member's death. An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they are remarried to each other as of the date of the retired member's death; and
 - (c) The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b).
- (6) Following cessation of membership as provided by KRS 61.535, no beneficiary designation in one (1) account shall be effective for any new retirement account established pursuant to KRS 61.637 or 61.680. If the member fails to designate a beneficiary for his or her new retirement account or if the beneficiary designation is determined to be void by the system, the member's estate shall become the beneficiary.

➔Section 5. KRS 61.621 is amended to read as follows:

- (1) Notwithstanding any provision of any statutes to the contrary, effective June 1, 2000, any employee participating in one (1) of the state-administered retirement systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be eligible for minimum benefits equal to the benefits payable under this section or KRS 61.702 if the employee dies or becomes totally and permanently disabled to engage in any occupation for remuneration or profit as a result of a duty-related injury.
- (2) (a) For purposes of this section, "duty-related injury" means:

1. a. A single traumatic event that occurs while the employee is performing the duties of his position; or
 - b. A single act of violence committed against the employee that is found to be related to his job duties, whether or not it occurs at his job site; and
 2. The event or act of violence produces a harmful change in the human organism evidenced by objective medical findings.
- (b) "Duty-related injury" does not include the effects of the natural aging process, a communicable disease unless the risk of contracting the disease is increased by nature of the employment, or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury.
- (3) (a) If the employee dies as a result of a duty-related injury and is survived by a spouse, the surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased employee's retirement account, *except as provided in subsection (2)(e) of Section 4 of this Act.*
- (b) The surviving spouse, *provided he or she supersedes all previously designated beneficiaries*, may elect to receive the benefits payable under KRS 61.640 or other applicable death benefit statutes, or may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to *seventy-five percent (75%)* ~~twenty-five percent (25%)~~ of the member's monthly *average* ~~final rate of~~ pay beginning in the month following the member's death and continuing each month until *the surviving spouse remarries or until the death* ~~of the unmarried surviving spouse~~.
- (c) *The monthly payment to the surviving spouse upon remarriage shall be twenty-five percent (25%) of the member's monthly average pay beginning in the month following remarriage and continuing each month until death.*
- (d) *In addition, if the member is also survived by dependent children, monthly payments shall be made for each dependent child equal to ten percent (10%) of the deceased member's monthly average pay, except that the combined maximum payment made to the:*
1. *Surviving spouse and dependent children under this subsection shall not exceed one hundred percent (100%) of the deceased member's monthly average pay; and*
 2. *Dependent children, while the surviving spouse is living or prior to the surviving spouse remarrying, shall not exceed twenty-five percent (25%) of the deceased member's monthly average pay. Payments made to the dependent children under this subsection shall be divided equally among all the dependent children.*
- (4) *If the employee dies as a result of a duty-related injury and is not survived by a spouse but is survived by a dependent child or children, the following benefits shall be paid to the dependent child or children:*
- (a) *Fifty percent (50%) of the deceased member's monthly average pay, if the deceased member has one (1) dependent child;*
 - (b) *Sixty-five percent (65%) of the deceased member's monthly average pay, if the deceased member has two (2) dependent children; or*
 - (c) *Seventy-five percent (75%) of the deceased member's monthly average pay, if the deceased member has three (3) or more dependent children.*
- Payments made to the dependent children under this subsection shall be divided equally among all the dependent children.*
- (5) If the employee is determined to be disabled as provided in KRS 61.600, or other applicable disability statutes in any other state-administered retirement system, as the result of a duty-related injury, the employee may elect to receive benefits determined under the provisions of KRS 61.605, or other applicable disability statutes in any other state-administered retirement system, except that the monthly retirement allowance shall not be less than twenty-five percent (25%) of the employee's monthly final rate of pay. For purposes of determining disability, the service requirement in KRS 61.600(1)(a), or other applicable statutes in any other state-administered retirement system, shall be waived.
- (6) ~~(5)~~ In the period of time following a member's ~~death or~~ disability during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten

percent (10%) of the ~~deceased or~~ disabled member's monthly final rate of pay; however, total maximum dependent children's benefits shall not exceed forty percent (40%) of the ~~deceased or~~ disabled member's monthly final rate of pay at the time any particular payment is due. The payment shall commence in the month following the date of ~~death or~~ disability of the member and shall be payable to the beneficiaries, or to a legally appointed guardian, or as directed by the system.

- (7) Benefits for death as a result of a duty-related injury *to a dependent child* shall be payable under this ~~section~~~~subsection~~ notwithstanding an election by a *surviving spouse or* beneficiary to withdraw the deceased member's accumulated account balance as provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other state-administered retirement system.

- ~~(8)(6)~~ (a) A spouse applying for benefits under this section who is also eligible for benefits under KRS 61.640 may elect to receive benefits under KRS 61.640(2)(a) or (b) while the application for benefits under this section is pending.
- (b) If a final determination results in a finding of eligibility for benefits under this section, the system shall recalculate the benefits due the spouse in accordance with this subsection.
- (c) If the spouse has been paid less than the amount of benefits to which the spouse was entitled to receive under this section, the system shall pay the additional funds due to the spouse.
- (d) If the spouse has been paid more than the benefit the spouse was eligible to receive under this section, then the system shall deduct the amount owed by the spouse from the ten thousand dollars (\$10,000) lump-sum payment and from the monthly retirement allowance payments until the amount owed to the systems has been recovered.

- (9) *For purposes of this section, "dependent child" has the same meaning as in Section 1 of this Act.*

- ~~(10)(7)~~ This section shall be known as "The Fred Capps Memorial Act."

➔Section 6. KRS 61.702 is amended to read as follows:

- (1) (a) 1. The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section.
2. Any person who chooses coverage under a hospital and medical insurance plan shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of the hospital and medical insurance plan coverage and the benefits to which he would be entitled under this section.
3. For purposes of this section, "hospital and medical insurance plan" may include, at the board's discretion, any one (1) or more of the following:
- a. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan;
 - b. Any health savings account as permitted by 26 U.S.C. sec. 223 or health reimbursement arrangement or a similar account as may be permitted by 26 U.S.C. sec. 105 or 106. Such arrangement or account, in the board's discretion, may reimburse any medical expense permissible under 26 U.S.C. sec. 213; or
 - c. A medical insurance reimbursement program established by the board through the promulgation of administrative regulation under which members purchase individual health insurance coverage through a health insurance exchange established under 42 U.S.C. sec. 18031 or 18041.
- (b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance

and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.

- (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.
 - (d) Notwithstanding anything in KRS Chapter 61 to the contrary, the board of trustees, in its discretion, may take necessary steps to ensure compliance with 42 U.S.C. secs. 300bb-1 et seq., including but not limited to receiving contributions and premiums from, and providing benefits pursuant to this section to, persons entitled to continuation coverage under 42 U.S.C. secs. 300bb-1 et seq., regardless of whether such persons are recipients of a retirement allowance.
- (2) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance trust fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.
- (b) 1. Each employer described in paragraph (a) of this subsection shall deduct from the creditable compensation of each member having a membership date on or after September 1, 2008, an amount equal to one percent (1%) of the member's creditable compensation. The deducted amounts shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520.
 - 2. The employer shall file the contributions as provided by subparagraph 1. of this paragraph at the retirement office in accordance with KRS 61.675 and 78.625. Any interest or penalties paid on any delinquent contributions shall be credited to accounts established pursuant to 26 U.S.C. sec. 401(h), within the funds established in KRS 16.510, 61.515, and 78.520. Notwithstanding any minimum compensation requirements provided by law, the deductions provided by this paragraph shall be made, and the compensation of the member shall be reduced accordingly.
 - 3. Each employer shall submit payroll reports, contributions lists, and other data as may be required by administrative regulation promulgated by the board of trustees pursuant to KRS Chapter 13A.
 - 4. Every member shall be deemed to consent and agree to the deductions made pursuant to this paragraph, and the payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. No member may elect whether to participate in, or choose the contribution amount to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520. The member shall have no option to receive the contribution required by this paragraph directly instead of having the contribution paid to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520. No member may receive a rebate or refund of contributions. If a member establishes a membership date prior to September 1, 2008, pursuant to KRS 61.552(1) or 61.552(20), then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.
 - 5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 through the use of separate accounts.
- (3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance trust fund;
3. Wholly or partly from funds contributed to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520;
4. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;
5. Partly from subparagraphs 1. to 4. of this paragraph, except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance trust fund; accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520; or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient by an automatic electronic transfer of funds. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay the balance, not to exceed the monthly contribution; or
6. In full from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled **as a direct result of an act in the line of duty as defined in Section 1 of this Act**~~[KRS 16.505(19)]~~ or **as a result of a duty-related injury as defined in Section 5 of this Act**~~[61.624]~~, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed **as a direct result of an act in the line of duty as defined in Section 1 of this Act**~~[KRS 16.505(19)]~~ or **as a result of a duty-related injury as defined in Section 5 of this Act**~~[61.624]~~, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child **as defined in Section 1 of this Act**, paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3)

retirement systems, except service added to determine disability benefits shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.

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

- (c) The insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, KRS 61.515, and 78.520 shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 provides coverage for the spouse or each dependent child of a former member of the County Employees Retirement System, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall continue the same level of coverage for the spouse or each dependent child after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent child is not eligible for Medicare coverage.
- (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.
- (6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
- (7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.
- (8) (a) 1. For employees having a membership date on or after July 1, 2003, and before September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.
2. For an employee having a membership date on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (b) An employee who meets the minimum service requirements as provided by paragraph (a) of this subsection shall be eligible for benefits as follows:
1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee.
2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or as a participating member of the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.

- (c) 1. The minimum service requirement to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled **as a direct result of an act** ~~for killed in~~ ~~the line of duty as defined in Section 1 of this Act [KRS 16.505(19)]~~, and the member or his spouse and eligible dependents shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.
2. The minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled **by a duty-related injury** ~~in the line of duty~~ as defined in **Section 5 of this Act** ~~[KRS 61.621]~~, and the member shall be entitled to the benefits payable under this subsection as though the member has twenty (20) years of service in a nonhazardous position.
3. **Notwithstanding the provisions of this section,** the minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who **dies as a direct result of an act in line of duty as defined in Section 1 of this Act or who dies as a result of a** ~~is killed in the line of~~ **duty-related injury as defined** ~~[described]~~ **in Section 5 of this Act** ~~[KRS 61.621]~~, and the **premium for the** member's spouse and **for each dependent child as defined in Section 1 of this Act** ~~[eligible dependents]~~ shall be **paid in full by the systems so long as they individually remain eligible for a monthly retirement benefit** ~~entitled to the benefits payable under this subsection as though the member has twenty (20) years of service in a hazardous position]~~.
- (d) **Except as provided by paragraph (c)3. of this subsection,** the monthly insurance contribution amount shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.
- (e) The benefits of this subsection provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (f) An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.

➔Section 7. KRS 78.510 is amended to read as follows:

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

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time

workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;

- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation":
 - (a) Means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4);
 - (b) Includes:
 - 1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
 - 2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
 - 3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
 - 4. Amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and
 - 5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and
 - (c) Excludes:

1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board;
 2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time; and
 3. Training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279. For employees who begin participating on or after August 1, 2016, creditable compensation shall exclude nominal fees paid for services as a volunteer;
- (14) "Final compensation" means:
- (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
 - (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
 - (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be used;
 - (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
 - (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
 - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable;
 - (d) Probationary positions which are positions of employment with a participating employer that do not exceed twelve (12) months and that are used uniformly by the participating agency on new employees who would otherwise be eligible for participation in the system. Probationary positions shall not be renewable by the participating employer for the same employee, unless the employee has not been employed with the participating employer for a period of at least twelve (12) months; or
 - (e) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement

allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;

- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
- (32) "Month" means a calendar month;
- (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
- (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
- (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (37) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (38) "Accumulated account balance" means:
 - (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (39) "Volunteer" means an individual who:
 - (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and
 - (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date;~~and~~
- (40) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection; **and**

- (41) *"Monthly average pay" means the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment.*

➔Section 8. Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852, 161.220 to 161.716, or any provision of Sections 1 to 7 of this Act to the contrary, the Kentucky Retirement Systems shall provide the following benefit adjustments to surviving spouses and dependent children of those members who died prior to the effective date of this Act and whose death was determined by the systems to be a direct result of an act in line of duty as defined in subsection (19) of Section 1 of this Act or whose death resulted from a duty-related injury as defined in Section 5 of this Act:

- (1) In the month following the effective date of this Act, the surviving spouse, if the spouse is receiving a monthly benefit due to a member's death, shall have his or her monthly benefit increased to the amount specified by Section 2 or 5 of this Act, as applicable, except that the amount shall not be increased above a level that exceeds 100 percent of the member's monthly average pay when combined with any dependent child payments from the systems;
- (2) In the month following the effective date of this Act, any dependent child who is receiving a monthly benefit due to a member's death shall have his or her monthly benefit increased to the amount specified by Section 2 or 5 of this Act, as applicable, if the member was not married at the time of death;
- (3) In the month following the effective date of this Act, a surviving spouse who was married to the deceased member at the time of death but who was ineligible for monthly benefits payable to the surviving spouse under KRS 16.601 as codified prior to the effective date of this Act, shall receive the monthly benefit payable to the surviving spouse in Section 2 of this Act, provided the member's death occurred on or after January 1, 2017; and
- (4) In the month following the effective date of this Act, any surviving spouse and any dependent child of a deceased member who is receiving a monthly benefit shall be eligible for the health benefits specified by Section 6 of this Act.

The provisions of this section shall only be construed to provide benefit adjustments to surviving spouses and dependent children of those members who died prior to the effective date of this Act and only in situations where the member's death was determined by the systems to be the direct result of an act in line of duty as defined in subsection (19) of Section 1 of this Act or resulted from a duty-related injury as defined in Section 5 of this Act.

➔Section 9. The provisions of Sections 1 to 8 of this Act shall not reduce any benefits payable to any surviving spouse or dependent children of a member who died prior to the effective date of this Act and whose death was determined by the systems to be the direct result of an act in line of duty as defined in subsection (19) of Section 1 of this Act or resulted from a duty-related injury as defined in Section 5 of this Act.

➔Section 10. This Act shall be cited as the Officer Scotty Hamilton and Officer Nick Rodman Memorial Act of 2018.

➔Section 11. Whereas protecting and honoring the families of public safety officers and employees who have given their lives in service to the Commonwealth is a value held by all Kentuckians, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 13, 2018.

CHAPTER 152

(HB 167)

AN ACT relating to birth mothers and newborn infants.

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

➔Section 1. KRS 405.075 is amended to read as follows:

- (1) As used in this section:

- (a) "Newborn infant" means an infant who is medically determined to be less than thirty (30) days old; and
 - (b) "Participating place of worship" means a recognized place of religious worship that has voluntarily agreed to perform the duty granted in this section and display signage prominently on its premises regarding its participation in this section and its operating hours during which staff will be present.
- (2) A parent who places a newborn infant with an emergency medical services provider or at a staffed police station, fire station, hospital, or participating place of worship and expresses no intent to return for the infant shall have the right to remain anonymous and not be pursued and shall not be considered to have abandoned or endangered the newborn infant under KRS Chapters 508 and 530.
- (3) (a) Any emergency medical services provider, police officer, or firefighter who accepts physical custody of a newborn infant in accordance with this section shall immediately arrange for the infant to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment.
- (b) Any staff member at a participating place of worship who accepts physical custody of a newborn infant in accordance with this section shall immediately contact the 911 emergency telephone service as set forth in KRS 65.750 to 65.760, wireless enhanced 911 system as set forth in KRS 65.7621 to 65.7643, or emergency medical services as set forth in KRS Chapter 311A for transportation to the nearest hospital emergency room.
- (4) By placing a newborn infant in the manner described in this section, the parent:
- (a) Waives the right to notification required by subsequent court proceedings conducted under KRS Chapter 620 until such time as a claim of parental rights is made; and
 - (b) Waives legal standing to make a claim of action against any person who accepts physical custody of the newborn infant.
- (5) ***A staffed police station, fire station, hospital, emergency medical facility, or participating place of worship may post a sign easily seen by the public stating that: "This facility is a safe and legal place to surrender a newborn infant who is less than 30 days old. A parent who places a newborn infant at this facility and expresses no intent to return for the infant shall have the right to remain anonymous and not be pursued and shall not be considered to have abandoned or endangered their newborn infant under KRS Chapters 508 and 530."***
- (6) Actions taken by an emergency medical services provider, police officer, firefighter, or staff member at a participating place of worship in conformity with the duty granted in this section shall be immune from criminal or civil liability. Nothing in this subsection shall limit liability for negligence.
- ~~(7)(6)~~ The provisions of subsection (2) of this section shall not apply when indicators of child physical abuse or child neglect are present.
- ~~(8)(7)~~ KRS 211.951, 216B.190, 405.075, 620.350, and 620.355 shall be known as "The Representative Thomas J. Burch Safe Infants Act."

➔Section 2. KRS 211.680 is amended to read as follows:

The Kentucky General Assembly declares that the purpose of KRS 211.680 to 211.686 and KRS 72.029 is to reduce the number of child ***and maternal*** fatalities. The General Assembly finds that establishing priorities and developing programs to prevent child ***and maternal*** fatalities requires the:

- (1) Accurate determination of the cause and manner of death;
- (2) Cooperation and communication among agencies responsible for the investigation of child ***and maternal*** fatalities; and
- (3) Collection and analysis of data to:
 - (a) Identify trends, patterns, and risk factors; and
 - (b) Evaluate the effectiveness of prevention and intervention strategies.

➔Section 3. KRS 211.684 is amended to read as follows:

- (1) For the purposes of KRS Chapter 211:
 - (a) "Child fatality" means the death of a person under the age of eighteen (18) years;~~and~~

- (b) "Local child **and maternal** fatality response team" and "local team" means a community team composed of representatives of agencies, offices, and institutions that investigate child **and maternal** deaths, including but not limited to, coroners, social service workers, medical professionals, law enforcement officials, and Commonwealth's and county attorneys; **and**
 - (c) *"Maternal fatality" means the death of a woman within one (1) year of giving birth.*
- (2) The Department for Public Health may establish a state child **and maternal** fatality review team. The state team may include representatives of public health, social services, law enforcement, prosecution, coroners, health-care providers, and other agencies or professions deemed appropriate by the commissioner of the department.
 - (3) If a state team is created, the duties of the state team may include the following:
 - (a) Develop and distribute a model protocol for local child **and maternal** fatality response teams for the investigation of child **and maternal** fatalities;
 - (b) Facilitate the development of local child **and maternal** fatality response teams which may include, but is not limited to, providing joint training opportunities and, upon request, providing technical assistance;
 - (c) Review and approve local protocols prepared and submitted by local teams;
 - (d) Receive data and information on child **and maternal** fatalities and analyze the information to identify trends, patterns, and risk factors;
 - (e) Evaluate the effectiveness of prevention and intervention strategies adopted; and
 - (f) Recommend changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate strategies for prevention and reduce the number of child **and maternal** fatalities.
 - (4) The department shall prepare an annual report to be submitted no later than November 1 of each year to the Governor, the Legislative Research Commission, the Chief Justice of the Kentucky Supreme Court, and to be made available to the citizens of the Commonwealth. The report shall include a statistical analysis of the incidence and causes of child **and maternal** fatalities in the Commonwealth during the past fiscal year and recommendations for action. The report shall not include any information which would identify specific child **and maternal** fatality cases.

➔Section 4. KRS 211.686 is amended to read as follows:

- (1) A local child **and maternal** fatality response team may be established in every county or group of contiguous counties by the coroner or coroners with jurisdiction in the county or counties. The local coroner may authorize the creation of additional local teams within the coroner's jurisdiction as needed.
- (2) Membership of the local team may include representatives of the coroner, the local office of the Department for Community Based Services, law enforcement agencies with investigation responsibilities for child **and maternal** fatalities which occur within the jurisdiction of the local team, the Commonwealth's and county attorneys, representatives of the medical profession, and other members whose participation the local team believes is important to carry out its purpose. Each local team member shall be appointed by the agency the member is representing and shall serve at the pleasure of the appointing authority.
- (3) The purpose of the local child **and maternal** fatality response team shall be to:
 - (a) Allow each member to share specific and unique information with the local team;
 - (b) Generate overall investigative direction and emphasis through team coordination and sharing of specialized information;
 - (c) Create a body of information that will assist in the coroner's effort to accurately identify the cause and reasons for death; and
 - (d) Facilitate the appropriate response by each member agency to the fatality, including but not limited to, intervention on behalf of ~~others[other children]~~ who may be adversely affected by the situation, implementation of health services necessary for protection of other citizens, further investigation by law enforcement, or legal action by Commonwealth's or county attorneys.
- (4) The local team may:

- (a) Analyze information regarding local child ***and maternal*** fatalities to identify trends, patterns, and risk factors;
 - (b) Recommend to the state team, and any other entities deemed appropriate, changes in state or local programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate strategies for prevention and reduce the number of child ***and maternal*** fatalities; and
 - (c) Evaluate the effectiveness of local prevention and intervention strategies.
- (5) The local team may establish a protocol for the investigation of child ***and maternal*** fatalities and may establish operating rules and procedures as it deems necessary to carry out the purposes of this section.
 - (6) The review of a child ***and maternal*** fatality by a local team may include information from reports generated or received by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case.
 - (7) The proceedings, records, opinions, and deliberations of the local team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the local team. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the local team.

Signed by Governor April 13, 2018.

CHAPTER 153

(HB 147)

AN ACT relating to seizure disorders in schools.

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

➔Section 1. KRS 158.832 is amended to read as follows:

As used in KRS 158.830 to ~~158.838~~~~158.836~~:

- (1) "Anaphylaxis" means an allergic reaction resulting from sensitization following prior contact with an antigen which can be a life-threatening emergency. Anaphylaxis may be triggered by, among other agents, foods, drugs, injections, insect stings, and physical activity.
- (2) "Medications" means all medicines individually prescribed by a health care practitioner for the student that pertain to his or her asthma or used to treat anaphylaxis, including but not limited to EpiPen or other auto-injectible epinephrine;
- (3) "Health care practitioner" means a physician or other health care provider who has prescriptive authority;~~and~~
- (4) "Self-administration" means the student's use of his or her prescribed asthma or anaphylaxis medications, pursuant to prescription or written direction from the health care practitioner; ***and***
- (5) ***"Seizure action plan" means a written, individualized health plan designed to acknowledge and prepare for the health care needs of a student diagnosed with a seizure disorder that is prepared by the student's treating physician.***

➔Section 2. KRS 158.838 is amended to read as follows:

- (1) (a) Beginning July 15, 2014, the board of each local public school district and the governing body of each private and parochial school or school district shall have at least one (1) school employee at each school who has met the requirements of KRS 156.502 on duty during the entire school day to administer or assist with the self-administration of the following medication:
 - 1. Glucagon subcutaneously to students with diabetes who are experiencing hypoglycemia or other conditions noted in the health care practitioner's written statement under subsection (2)(b) of this section;

2. Insulin subcutaneously, through the insulin delivery method used by the student and at the times and under the conditions noted in the health care practitioner's written statement under subsection (2)(b) of this section; and
 3. A seizure rescue medication *or medication prescribed to treat seizure disorder symptoms* approved by the United States Food and Drug Administration and any successor agency.
- (b) For those assigned the duties under paragraph (a) of this subsection, the training provided under KRS 156.502 shall include instruction in administering:
1. Insulin and glucagon, as well as recognition of the signs and symptoms of hypoglycemia and hyperglycemia and the appropriate steps to be taken to respond to these symptoms; *and*
 2. *Seizure medications, as well as the recognition of the signs and symptoms of seizures and the appropriate steps to be taken to respond to these symptoms.*
- (c) Any training program or guidelines adopted by any state agency for training of school personnel in the diabetes care tasks covered by this section shall be fully consistent with training programs and guidelines developed by the American Diabetes Association. Notwithstanding any state agency requirement or other law to the contrary, for purposes of this training a local school district shall be permitted to use any adequate and appropriate training program or guidelines for training of school personnel in the diabetes care tasks covered under this section.
- (d) *Any training program or guidelines adopted by any state agency for training of school personnel in the health care needs of students diagnosed with a seizure disorder shall be fully consistent with best practice guidelines from medical professionals with expertise in seizure treatment.*
- (2) (a) Prior to administering any of the medications listed under subsection (1)(a) of this section to a student, the student's parent or guardian shall:
- 1.~~{(a)}~~ Provide the school with a written authorization to administer the medication at school;
 - 2.~~{(b)}~~ Provide a written statement from the student's health care practitioner, which shall contain the following information:
 - a~~{1}~~. Student's name;
 - b~~{2}~~. The name and purpose of the medication;
 - c~~{3}~~. The prescribed dosage;
 - d~~{4}~~. The route of administration;
 - e~~{5}~~. The frequency that the medication may be administered; and
 - f~~{6}~~. The circumstances under which the medication may be administered; and
 - 3.~~{(c)}~~ Provide the prescribed medication to the school in its unopened, sealed package with the label affixed by the dispensing pharmacy intact.
- (b) *In addition to the statements required in paragraph (a) of this subsection, the parent or guardian of each student diagnosed with a seizure disorder shall collaborate with school personnel to implement the seizure action plan. The Kentucky Board of Education shall promulgate administrative regulations establishing procedures for the implementation of seizure action plans.*
- (3) (a) The statements *and seizure action plan* required in subsection (2) of this section shall be kept on file in the office of the school nurse or school administrator.
- (b) *Any school personnel or volunteers responsible for the supervision or care of a student diagnosed with a seizure disorder shall be given notice of the seizure action plan, the identity of the school employee or employees trained in accordance with subsection (1)(a) of this section, and the method by which the trained school employee or employees may be contacted in the event of an emergency.*
- (4) The school district or the governing body of each private and parochial school or school district shall inform the parent or guardian of the student that the school and its employees and agents shall not incur any liability as a result of any injury sustained by the student from any reaction to any medication listed under subsection (1)(a) of this section that a parent or guardian has authorized the school district to administer to a student to treat a hypoglycemic or hyperglycemic episode or a seizure or its administration, unless the injury is the result of negligence or misconduct on behalf of the school or its employees. The parent or guardian of the student

shall sign a written statement acknowledging that the school shall incur no liability except as provided in this subsection, and the parent or guardian shall hold harmless the school and its employees against any claims made for any reaction to any medication listed under subsection (1)(a) of this section that a parent or guardian has authorized the school district to administer to a student to treat a hypoglycemic or hyperglycemic episode or a seizure or its administration if the reaction is not due to negligence or misconduct on behalf of the school or its employees.

- (5) The permission for the administration of any of the medications listed under subsection (1)(a) of this section shall be effective for the school year in which it is granted and shall be renewed each following school year upon fulfilling the requirements of subsections (2) to (4) of this section.
- (6) The school nurse or school administrator shall check the expiration date monthly for each medication listed under subsection (1)(a) of this section that is in the possession of the school. At least one (1) month prior to the expiration date of each medication, the school nurse or school administrator shall inform the parent or guardian of the expiration date.
- (7) Upon the written request of the parent or guardian of the student and written authorization by the student's health care practitioner, a student with diabetes shall be permitted to perform blood glucose checks, administer insulin through the insulin delivery system the student uses, treat hypoglycemia and hyperglycemia, and otherwise attend to the care and management of his or her diabetes in the school setting and at school-related activities. A student shall be permitted to possess on his or her person at all times necessary supplies and equipment to perform these monitoring and treatment functions. Upon request by the parent or student, the student shall have access to a private area for performing diabetes care tasks.
- (8)
 - (a) Beginning July 15, 2014, a school district shall permit a student who has diabetes or a seizure disorder to attend the same school the student would attend if the student did not have diabetes or a seizure disorder. Such a student may only be transferred to a different school based on health care needs if the individualized education program team, the Section 504 team, or, if appropriate, the student's health services team, makes the determination that the student's health condition requires that the student's care be provided by a licensed health care professional at a different school. For the purpose of this determination, the teams shall include the parent or guardian. The parent or guardian may invite the student's treating physician to the team meeting and the team shall consider the physician's input, whether in person or in written form, when making this determination. This determination shall be based on individualized factors related to the student's health conditions. A school district shall not prohibit a student who has diabetes or a seizure disorder from attending any school on the sole basis that:
 1. The student has diabetes or a seizure disorder;
 2. The school does not have a full-time school nurse; or
 3. The school does not have school employees who are trained in accordance with KRS 156.502 and assigned to provide care under this section.
 - (b) Parents or guardians of students who have diabetes or a seizure disorder shall not be required or pressured by school personnel to provide care for a student with diabetes or a seizure disorder during regular school hours or during school-related activities in which the student is a participant. For the purposes of this paragraph, a participant is not a student who merely observes the activity.
- (9) The requirements of subsections (1) to (8) of this section shall apply only to schools that have a student enrolled who:
 - (a) Has a seizure disorder and has a seizure rescue medication ***or medication prescribed to treat seizure disorder symptoms*** approved by the United States Food and Drug Administration and any successor agency prescribed by the student's health care provider; or
 - (b) Has diabetes mellitus and has any of the medications listed under subsection (1)(a) of this section prescribed by the student's health care provider.
- (10) Nothing in this section shall be construed to require a school employee to consent to administer medications listed under subsection (1)(a) of this section to a student if the employee does not otherwise consent to provide the health service under KRS 156.502.
- (11) Notwithstanding any other provision of the law to the contrary:

- (a) The administration of the medications listed under subsection (1)(a) of this section by school employees shall not constitute the practice of nursing and shall be exempt from all applicable statutory and regulatory provisions that restrict the activities that may be delegated to or performed by a person who is not a licensed health care professional; and
- (b) A licensed health care professional may provide training to or supervise school employees in the administration of the medications listed under subsection (1)(a) of this section.

➔Section 3. KRS 158.070 is amended to read as follows:

(1) As used in this section:

- (a) "Election" has the same meaning as in KRS 121.015;
 - (b) "Minimum school term" or "school term" means not less than one hundred eighty-five (185) days composed of the student attendance days, teacher professional days, and holidays;
 - (c) "School calendar" means the document adopted by a local board of education that establishes the minimum school term, student instructional year or variable student instructional year, and days that school will not be in session;
 - (d) "School district calendar committee" means a committee consisting of:
 - 1. One (1) school district principal;
 - 2. One (1) school district office administrator other than the superintendent;
 - 3. One (1) member of the local board of education;
 - 4. Two (2) parents of students attending a school in the district;
 - 5. One (1) school district elementary school teacher;
 - 6. One (1) school district middle or high school teacher;
 - 7. Two (2) school district classified employees; and
 - 8. Two (2) community members from the local chamber of commerce, business community, or tourism commission;
 - (e) "Student attendance day" means any day that students are scheduled to be at school to receive instruction, and encompasses the designated start and dismissal time;
 - (f) "Student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time for students delivered on not less than one hundred seventy (170) student attendance days;
 - (g) "Teacher professional day" means any day teachers are required to report to work as determined by a local board of education, with or without the presence of students; and
 - (h) "Variable student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time delivered on the number of student attendance days adopted by a local board of education which shall be considered proportionally equivalent to one hundred seventy (170) student attendance days and calendar days for the purposes of a student instructional year, employment contracts that are based on the school term, service credit under KRS 161.500, and funding under KRS 157.350.
- (2)
- (a) Beginning with the 2018-2019 school year, and each year thereafter, the local board of education, upon recommendation of the local school district superintendent, shall annually appoint a school district calendar committee to review, develop, and recommend school calendar options.
 - (b) The school district calendar committee, after seeking feedback from school district employees, parents, and community members, shall recommend school calendar options to the local school district superintendent for presentation to the local board of education. The committee's recommendations shall comply with state laws and regulations and consider the economic impact of the school calendar on the community and the state.
 - (c) Prior to adopting a school calendar, the local board of education shall hear for discussion the school district calendar committee's recommendations and the recommendation of the superintendent at a meeting of the local board of education.

- (d) During a subsequent meeting of the local board of education, the local board shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, student attendance days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.
 - (e) For local board of education meetings described in paragraphs (c) and (d) of this subsection, if the meeting is a regular meeting, notice shall be given to media outlets that have requests on file to be notified of special meetings stating the date of the regular meeting and that one (1) of the items to be considered in the regular meeting will be the school calendar. The notice shall be sent at least twenty-four (24) hours before the regular meeting. This requirement shall not be deemed to make any requirements or limitations relating to special meetings applicable to the regular meeting.
 - (f) Beginning with the 2018-2019 school year, and each year thereafter, a local school board of education that adopts a school calendar with the first student attendance day in the school term starting no earlier than the Monday closest to August 26 may use a variable student instructional year. Districts may set the length of individual student attendance days in a variable student instructional schedule, but no student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.
- (3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of students pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.
- (b) In addition to the four (4) days required under paragraph (a) of this subsection:~~{}~~
- 1. A minimum of two (2) hours of self-study review of suicide prevention materials shall be required for all high school and middle school principals, guidance counselors, and teachers each school year; *and*
 - 2. *At least one (1) hour of self-study review of seizure disorder materials shall be required for all principals, guidance counselors, and teachers hired after July 1, 2019.*
- (c) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.
- 1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
 - 2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.
- (d) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.
- (e) Each local board may use two (2) days for planning activities without the presence of students.
- (f) Each local board may close schools for the number of days deemed necessary for:

1. National or state emergency or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
 2. Local emergency which would endanger the health or safety of children; and
 3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.
- (4) (a) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of student attendance days as a result of a local emergency, as described in subsection (3)(f)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of waivers from the requirements of a student instructional year in subsection (1)(f) of this section for districts that wish to adopt innovative instructional calendars, or for circumstances that would create extreme hardship.
- (b) If a local board of education amends its school calendar after its adoption due to an emergency, it may lengthen or shorten any remaining student attendance days by thirty (30) minutes or more, as it deems necessary, provided the amended calendar complies with the requirements of a student instructional year in subsection (1)(f) of this section or a variable student instructional year in subsection (1)(h) of this section. No student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.
- (5) (a) 1. In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings.
2. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates.
3. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit employees who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence.
4. The commissioner of education shall designate one (1) additional day during the school year when schools may be closed to permit professional school employees to participate in regional or district professional meetings.
5. These three (3) days so designated for attendance at professional meetings may be counted as a part of the minimum school term.
- (b) 1. If any school in a district is used as a polling place, the school district shall be closed on the day of the election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.
2. A district may be open on the day of an election if no school in the district is used as a polling place.
- (c) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:
1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(d) of this section; or
 2. Not include the day in the minimum school term specified in subsection (1) of this section.
- (6) (a) The Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, shall be encouraged to schedule athletic competitions outside the regularly scheduled student attendance day.
- (b) Beginning with the 2009-2010 school year, any member of a school-sponsored interscholastic athletic team who competes in a regional tournament or state tournament sanctioned by the Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, and occurring on a regularly scheduled student attendance day may be counted present at school on the date or dates of the competition, as determined by local board policy, for a maximum of two (2) days per student per year. The student shall be expected to complete any assignments missed on the date or dates of the competition.

- (c) The school attendance record of any student for whom paragraph (b) of this subsection applies shall indicate that the student was in attendance on the date or dates of competition.
- (7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.
- (8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the student attendance day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the student attendance day.
- (9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the student instructional year in subsection (1)(f) of this section, or a variable student instructional year in subsection (1)(h) of this section, except that the commissioner of education may grant up to the equivalent of ten (10) student attendance days for school districts that have an alternative instruction plan approved by the commissioner of education for the use of alternative methods of instruction, including virtual learning, on days when the school district is closed for health or safety reasons, on nontraditional days, or on nontraditional time. The district's plan shall demonstrate how teaching and learning in the district will not be negatively impacted. Average daily attendance for purposes of Support Education Excellence in Kentucky program funding during the student attendance days granted shall be calculated in compliance with administrative regulations promulgated by the Kentucky Board of Education.
- (10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (2) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the beginning of the student attendance day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the student attendance day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.
- (11) Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses student attendance days due to emergencies, including weather-related emergencies:
 - (a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:
 - 1. State and local requirements under this section are met regarding the equivalent of the number and length of student attendance days, teacher professional days, professional development days, holidays, and days for planning activities without the presence of students; and
 - 2. The provisions of the district's school calendar to make up student attendance days missed due to any emergency, as approved by the Kentucky Department of Education when required, including but not limited to a provision for additional instructional time per day, are met.
 - (b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:
 - 1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make up full days missed due to an emergency;
 - 2. The employee's contract requires a minimum six (6) hour work day; and

3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.
- (c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened student attendance days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened student attendance days.

➔Section 4. Each local school district shall require all principals, guidance counselors, and teachers to complete at least one hour of self-study review of seizure disorder materials no later than July 1, 2019. This self-study review shall be in addition to the four days required under KRS 158.070(3)(a), unless otherwise approved by the school district. Nothing in this section shall be construed to limit the authority of a school district or the Kentucky Department of Education to require additional seizure disorder training.

➔Section 5. This Act may be cited as the Lyndsey Crunk Act.

Signed by Governor April 13, 2018.

CHAPTER 154

(SB 110)

AN ACT relating to quota licenses for alcohol and declaring an emergency.

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

➔Section 1. KRS 241.065 is amended to read as follows:

- (1) The number of quota retail package licenses issued by the Alcoholic Beverage Control Board to licensees in counties containing cities of the first class, and including such cities, shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.
- (2) ~~{The number of quota retail drink licenses issued by the Alcoholic Beverage Control Board to licensees in counties containing cities of the first class, and including such cities shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.~~
- ~~(3) —~~ In order that a fixed and approved standard of population as prescribed in *subsection*~~{subsections}~~ (1)~~{and (2)}~~ of this section may be adopted the annual estimates of population as determined by *the Kentucky State Data Center at the University of Louisville*~~{chambers of commerce of cities of the first class}~~ shall be used in every year except a census year, and during a census year the United States government census figures of population shall be controlling.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

- (1) *The number of quota retail package licenses issued by the department in any wet county shall not exceed one (1) license for every two thousand three hundred (2,300) persons resident in the county, except that:*
 - (a) *A wet county containing a city of the first class shall be subject to the limitations in Section 1 of this Act;*
 - (b) *No fewer than two (2) quota retail package licenses shall be available for issuance by the department in any wet county; and*
 - (c) *Any specific county quota amounts that were issued by the department prior to January 1, 2018, in excess of the population calculations established in this section shall remain in effect, and the department shall maintain the list of specific quotas in an administrative regulation.*
- (2) *Nothing in this section shall be construed to prohibit license renewal or license transfers approved by the department of an existing quota retail license issued in a wet county.*
- (3) *In counties that have not received an increased quota license amount from the department, any quota licenses over the established amount shall be reduced as the licenses are revoked, surrendered, or not renewed by the license holder.*

- (4) *If a dry county that contains a wet city becomes wet, the quota established by this section shall supersede and replace any separate city quota.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

- (1) *The number of quota retail package licenses issued by the department in any city that becomes wet separate from its county by virtue of a local option election pursuant to KRS 242.125 shall not exceed one (1) license for every two thousand three hundred (2,300) persons resident in the city, except that:*
- (a) *No fewer than two (2) quota retail package licenses shall be available for issuance by the department in any wet city; and*
- (b) *Any specific city quota amounts that were issued by the department prior to January 1, 2018, in excess of the population calculations established in this section shall remain in effect, and the department shall maintain the list of specific quotas in an administrative regulation.*
- (2) *Nothing in this section shall be construed to prohibit license renewal or license transfers approved by the department of an existing quota retail license issued in a wet city.*
- (3) *In cities that have not received an increased quota license amount from the department, any quota licenses over the established amount shall be reduced as the licenses are revoked, surrendered, or not renewed by the license holder.*
- (4) *If a dry county in which a wet city is located becomes wet, the quota established for that entire county by Section 2 of this Act shall supersede and replace any separate city quota under this section.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

For the purposes of administering Sections 2 and 3 of this Act:

- (1) *The population data shall be based on a wet county's or city's annual population estimates prepared by the Kentucky State Data Center at the University of Louisville in every year except a federal decennial census year. The federal decennial census figures of population shall be used in a census year; and*
- (2) (a) *On or before January 1 of each year, the department shall obtain the population figures of all wet counties and cities as of that date for determination of the number of quota licenses available.*
- (b) *If a quota retail license vacancy is created by an increase in population or any other reason, the department shall publish notice of the vacancy and information on how to apply for the license within sixty (60) days in the newspaper used for the legal notices of that county or city.*
- (c) *The department shall accept applications for a quota retail license vacancy not later than thirty (30) days following the date on which the public notice is published.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

- (1) *A city may petition the board for an increase in the number of quota licenses available in its jurisdiction pursuant to Section 6 of this Act. A request for an increase shall not exceed the ratio of one (1) per every one thousand five hundred (1,500) residents.*
- (2) *The board shall consider the following factors when deciding whether to grant the increase:*
- (a) *Population served by the city;*
- (b) *Total retail sales of the city for the most recent past fiscal year;*
- (c) *Retail sales per capita for the most recent past fiscal year;*
- (d) *Total alcohol sales in the city for the most recent past fiscal year;*
- (e) *Tourist destinations in the area, if applicable; and*
- (f) *Other economic and commercial data offered to show the capacity to support additional licenses.*
- (3) *The board shall grant the request if the information supplied supports the requested increase, and shall begin the process of filing an amendment to its administrative regulation to register the increase. Additional licenses shall not be issued until the administrative regulation process is complete and the amendment is adopted.*
- (4) *If the board determines the information supplied does not support a quota increase, it shall notify the city of its decision by registered mail at the address given in the request. The city shall have thirty (30) days from*

the date of the mailing to file a written request for a hearing before the board regarding its request for an increase.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

- (1) *A city shall not file a request with the board seeking to increase the number of quota retail licenses for the city unless at least three (3) years have passed since the certification of its local option election approving alcohol sales.*
- (2) *Prior to making its request, the city shall publish a notice in the newspaper used for its legal notices, advising the general public of the city's intent to request additional licenses from the board.*
- (3) *The request to the board for a quota increase shall include:*
 - (a) *A certified copy of the governing body's resolution approving the request;*
 - (b) *A certified copy of the notice referenced in subsection (2) of this section; and*
 - (c) *An explanation as to the reason the city meets the criteria established in Section 5 of this Act for a quota increase.*
- (4) *The city shall bear the burden of showing an increase is necessary.*
- (5) *A city shall not petition the board for an increase more than once every three (3) years.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

A quota retail package licensee assumes the business risk that the number of quota licenses available in a city or county may be increased at a later time.

➔Section 8. Whereas, the sale of alcohol is a highly regulated activity under Kentucky law; and whereas the alcohol quota licensing system currently exists primarily in Kentucky Administrative Regulations Chapter 804; and whereas the department has filed to repeal those regulations, a repeal of which will upend the current regulatory licensing scheme of alcohol, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature April 14, 2018.

CHAPTER 155

(SB 97)

AN ACT relating to municipal annexation.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

- (1) *When a city annexes or proposes to annex any territory in which no person is residing, any person who pursues litigation against the annexation shall have standing in a court of law to do so if that person:*
 - (a) *Owns property within the area that is proposed to be annexed or that has been annexed by a city; or*
 - (b) *Owns property directly adjoining a parcel of land that contains either in whole or in part any territory proposed to be annexed or annexed by the city. For the purposes of this paragraph "parcel" means a tract of real property that is assessed as a single unit for purposes of determining ad valorem tax liability.*
- (2) *If an election on annexation held pursuant to KRS 81A.420 is defeated, a city government that proposed the annexation shall have standing to contest the results of the election for the reasons and in a manner established in KRS 120.250.*
- (3) *The authority granted by this section shall be construed to be in addition to any standing to pursue litigation existing in statute, common law, or the rules of city procedure.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

Any area annexed by a city pursuant to this chapter shall be conclusively deemed to be validly annexed if no person has contested the annexation in a court of competent jurisdiction within two (2) years following the effective date of the ordinance finally annexing the territory into the city.

➔Section 3. KRS 65.012 is amended to read as follows:

- (1) All referendum petitions permitted by general law in KRS Chapters 65, 67, 67A, 67C, 68, 76, 81, 81A, 83A, 96, 96A, 97, 98, 99, 107, 108, 109, 132, 147, 157, 160, 162, 165, 173, 178, 183, 212, 230, 242, 243, 244, 262, 269, 424, and 436 and any referendum petitions permitted by other KRS chapters in accordance with Sections 60 and 171 of the Constitution of Kentucky shall include the:
 - (a) Printed name of the petitioner;
 - (b) Signature of the petitioner, ***or if the petitioner is a business or other organization, the signature of the legal representative of the business or organization;***
 - (c) Year of birth of the petitioner ***if the petitioner is an individual other than a business or other organization;***
 - (d) Residential address of the petitioner, ***or if the petitioner is a business or other organization, the address of the physical location of the business or organization that authorizes it to be a petitioner and, if different, the address of its headquarters;*** and
 - (e) Date that the petitioner signed the petition.
- (2) ***Unless otherwise explicitly provided under the applicable law governing the petition,*** to be eligible to sign any referendum petition described in this section, a ~~petitioner~~~~person~~ shall:
 - (a) Live in the district or jurisdiction that will be affected by the referendum ***or if the petitioner is a business or other organization, have a physical address within the district or jurisdiction that will be affected by the referendum;*** and
 - (b) Be a registered voter ***if the petitioner is an individual other than a business or other organization.***

Signed by Governor April 13, 2018.

CHAPTER 156

(SB 71)

AN ACT relating to health education.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

If a school council or, if none exists, the principal adopts a curriculum for human sexuality or sexually transmitted diseases, instruction shall include but not be limited to the following content:

- (1) ***Abstinence from sexual activity is the desirable goal for all school-age children;***
- (2) ***Abstinence from sexual activity is the only certain way to avoid unintended pregnancy, sexually transmitted diseases, and other associated health problems;*** and
- (3) ***The best way to avoid sexually transmitted diseases and other associated health problems is to establish a permanent mutually faithful monogamous relationship.***

Signed by Governor April 13, 2018.

CHAPTER 157

(SB 5)

AN ACT relating to pharmacy benefits in the Medicaid program, and declaring an emergency.

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

➔Section 1. KRS 205.647 is amended to read as follows:

- (1) As used in this section, "pharmacy benefit manager" has the same meaning as in KRS 304.9-020.
- (2) A pharmacy benefit manager contracted with a managed care organization that provides Medicaid benefits pursuant to this chapter shall comply with the provisions of this section and KRS 304.9-053, 304.9-054, 304.9-055, and 304.17A-162.
- (3) KRS 304.17A-162(10), (11), (12), and (13) shall not apply to a pharmacy benefit manager contracted directly with the cabinet to provide Medicaid benefits.
- (4) *A pharmacy benefit manager contracting with a managed care organization to administer Medicaid benefits shall provide the following information to the Department for Medicaid Services no later than August 15, 2018, and for each year thereafter that the pharmacy benefit manager is contracted with a managed care organization to administer Medicaid benefits:*
 - (a) *The total Medicaid dollars paid to the pharmacy benefit manager by a managed care organization and the total amount of Medicaid dollars paid to the pharmacy benefit manager by a managed care organization which were not subsequently paid to a pharmacy licensed in Kentucky;*
 - (b)
 1. *The average reimbursement, by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy benefit manager to licensed pharmacies with which the pharmacy benefit manager shares common ownership, management, or control; or which are owned, managed, or controlled by any of the pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company; or which share any common members on the board of directors; or which share managers in common.*
 2. *For the purposes of this subsection "average reimbursement" means a statistical methodology selected by the Department for Medicaid Services via any administrative regulations promulgated pursuant to this section which shall include, at a minimum, the median and mean;*
 - (c) *The average reimbursement, by drug ingredient cost, dispensing fee, and any other fee, paid by a pharmacy benefit manager to pharmacies licensed in Kentucky which operate more than ten (10) locations;*
 - (d) *The average reimbursement by drug ingredient cost, dispensing fee, and any other fee, paid by a pharmacy benefit manager to pharmacies licensed in Kentucky which operate ten (10) or fewer locations;*
 - (e) *Any direct or indirect fees, charges, or any kind of assessments imposed by the pharmacy benefit manager on pharmacies licensed in Kentucky with which the pharmacy benefit manager shares common ownership, management, or control; or which are owned, managed, or controlled by any of the pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company; or which share any common members on the board of directors; or which share managers in common;*
 - (f) *Any direct or indirect fees, charges, or any kind of assessments imposed by the pharmacy benefit manager on pharmacies licensed in Kentucky which operate more than ten (10) locations;*
 - (g) *Any direct or indirect fees, charges, or any kind of assessments imposed by the pharmacy benefit manager on pharmacies licensed in Kentucky which operate ten (10) or fewer locations; and*
 - (h) *All common ownership, management, common members of a board of directors, shared managers, or control of a pharmacy benefit manager, or any of the pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company with any managed care organization contracted to administer Kentucky Medicaid benefits, any entity which contracts on behalf of a pharmacy, or any pharmacy services administration organization, or any common ownership,*

management, common members of a board of directors, shared managers, or control of a pharmacy services administration organization that is contracted with a pharmacy benefit manager, with any drug wholesaler or distributor or any of the pharmacy services administration organizations, management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, common members of a board of directors, manager, or holding company.

- (5) *All information provided by a pharmacy benefit manager pursuant to subsection (4) of this section shall reflect data for the most recent full calendar year and shall be divided by month. This information shall be managed by the Department for Medicaid Services in accordance with applicable law and shall be exempt from KRS 61.870 to 61.884 in accordance with KRS 61.878(1)(c).*
- (6) *Any contract entered into or renewed for the delivery of Medicaid services by a managed care organization on or after the effective date of this Act shall comply with the following requirements:*
 - (a) *The Department for Medicaid Services shall set, create, or approve, and may change at any time for any reason, reimbursement rates between a pharmacy benefit manager and a contracted pharmacy, or an entity which contracts on behalf of a pharmacy. Reimbursement rates shall include dispensing fees which take into account applicable guidance by the Center for Medicare and Medicaid Services. A pharmacy benefit manager shall notify the Department for Medicaid Services thirty (30) days in advance of any proposed change of over five percent (5%) in the product reimbursement rates for a pharmacy licensed in Kentucky. The Department for Medicaid Services may disallow the change within thirty (30) days of this notification;*
 - (b) *All laws and administrative regulations promulgated by the Department for Medicaid Services, including but not limited to the regulation of maximum allowable costs;*
 - (c) *The Department for Medicaid Services shall approve any contract between the managed care organization and a pharmacy benefit manager;*
 - (d) *The Department for Medicaid Services shall approve any contract, any change in the terms of a contract, or suspension or termination of a contract between a pharmacy benefit manager contracted with a managed care organization to administer Medicaid benefits and an entity which contracts on behalf of a pharmacy, or any contract or any change in the terms of a contract, or any suspension or termination of a contract between a pharmacy benefit manager and a pharmacy or pharmacist; and*
 - (e) *Any fee established, modified, or implemented directly or indirectly by a managed care organization, pharmacy benefit manager, or entity which contracts on behalf of a pharmacy that is directly or indirectly charged to, passed onto, or required to be paid by a pharmacy services administration organization, pharmacy, or Medicaid recipient shall be submitted to the Department for Medicaid Services for approval. This paragraph shall not apply to any membership fee or service fee established, modified, or implemented by a pharmacy services administration organization on a pharmacy licensed in Kentucky that is not directly or indirectly related to product reimbursement.*
- (7) *The Department for Medicaid Services may promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and administer its responsibilities under this section. These administrative regulations may include, but are not limited to the assessment of fines, penalties, or sanctions for noncompliance.*
- (8) *The Department for Medicaid Services may consider any information ascertained pursuant to this section in the setting, creation, or approval of reimbursement rates used by a pharmacy benefit manager or an entity which contracts on behalf of a pharmacy.*

➔Section 2. KRS 304.9-440 is amended to read as follows:

- (1) The commissioner may place on probation, suspend, or may impose conditions upon the continuance of a license for not more than twenty-four (24) months, revoke, or refuse to issue or renew any license issued under this subtitle or any surplus lines broker, life settlement broker, or life settlement provider license, or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for any one (1) or more of the following causes:
 - (a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;
 - (b) Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner;

- (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
 - (d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance or the business of life settlements;
 - (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract, life settlement contract, or application for insurance;
 - (f) Having been convicted of or having pled guilty or nolo contendere to any felony;
 - (g) Having admitted or been found to have committed any unfair insurance trade practice, insurance fraud, or fraudulent life settlement act;
 - (h) Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere;
 - (i) Having an insurance license, life settlement license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
 - (j) Surrendering or otherwise terminating any license issued by this state or by any other jurisdiction, under threat of disciplinary action, denial, or refusal of the issuance of or renewal of any other license issued by this state or by any other jurisdiction; or revocation or suspension of any other license held by the licensee issued by this state or by any other jurisdiction;
 - (k) Forging another's name to an application for insurance, to any other document related to an insurance transaction, or to any document related to the business of life settlements;
 - (l) Cheating, including improperly using notes or any other reference material to complete an examination for license;
 - (m) Knowingly accepting insurance or life settlement business from an individual or business entity who is not licensed, but who is required to be licensed under this subtitle;
 - (n) Failing to comply with an administrative or court order imposing a child support obligation;
 - (o) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax;
 - (p) Having been convicted of a misdemeanor for which restitution is ordered in excess of three hundred dollars (\$300), or of any misdemeanor involving dishonesty, breach of trust, or moral turpitude;
 - (q) Failing to no longer meet the requirements for initial licensure;
 - (r) If a life settlement provider, demonstrating a pattern of unreasonable payments to owners or failing to honor contractual obligations set out in a life settlement contract;
 - (s) Entering into any life settlement contract or using any form that has not been approved pursuant to Subtitle 15 of this chapter;
 - (t) If a licensee, having assigned, transferred, or pledged a policy subject to a life settlement contract to a person other than a life settlement provider licensed in this state, an accredited investor or qualified institutional buyer as defined, respectively, in Regulation D, Rule 501 or Rule 144a of the Federal Securities Act of 1933, as amended, a financing entity, a special purpose entity, or a related provider trust; or
 - (u) Any other cause for which issuance of the license could have been refused, had it then existed and been known to the commissioner.
- (2) The license of a business entity may be suspended, revoked, or refused for any cause relating to an individual designated in or registered under the license if the commissioner finds that an individual licensee's violation was known or should have been known by one (1) or more of the partners, officers, or managers acting on behalf of the business entity and the violation was not reported to the Department of Insurance nor corrective action taken.
- (3) ***The license of a pharmacy benefit manager may, in the discretion of the commissioner, be suspended, revoked, or refused for any cause enumerated in subsection (1) of this section, and for violations of Section 1 of this Act, KRS 304.9-053, 304.9-054, 304.9-055, and 304.17A-162. The pharmacy benefit manager shall also be subject to the same civil penalties under KRS 304.99-020 as an insurer.***

- (4) The applicant or licensee may make written request for a hearing in accordance with KRS 304.2-310.
- (5)~~(4)~~ The commissioner shall retain the authority to enforce the provisions and penalties of this chapter against any individual or business entity who is under investigation for or charged with a violation of this chapter, even if the individual's or business entity's license has been surrendered or has lapsed by operation of law.
- (6)~~(5)~~ The commissioner may suspend, revoke, or refuse to renew the license of a licensed insurance agent operating as a life settlement broker, pursuant to KRS 304.15-700, if the commissioner finds that such insurance agent has violated the provisions of KRS 304.15-700 to 304.15-725.
- (7)~~(6)~~ If the commissioner denies a license application or suspends, revokes, or refuses to renew the license of a life settlement provider or life settlement broker, or suspends, revokes, or refuses to renew the license of a licensed life insurance agent operating as a life settlement broker pursuant to KRS 304.15-700, the commissioner shall comply with the provisions of this section and KRS Chapter 13B.

➔Section 3. Whereas there is an urgent need for government agencies to have transparency and to better assess contracts between entities providing Medicaid pharmacy benefits with public dollars, an emergency is declared to exist, and this Act takes effect on July 1, 2018.

Signed by Governor April 13, 2018.

CHAPTER 158

(HB 3)

AN ACT relating to school curriculum and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *Beginning with the 2019-2020 school year, each school district shall implement essential workplace ethics programs that promote characteristics that are critical to success in the workplace. Each student in elementary, middle, and high school shall receive essential workplace ethics instruction that shall include but not be limited to:*
- (a) *Adaptability, including an openness to learning and problem solving, an ability to embrace new ways of doing things, and a capability for critical thinking;*
 - (b) *Diligence, including seeing a task through to completion;*
 - (c) *Initiative, including taking appropriate action when needed without waiting for direct instruction;*
 - (d) *Knowledge, including exhibiting an understanding of work-related information, the ability to apply that understanding to a job, and effectively explain the concepts to colleagues in reading, writing, mathematics, science, and technology as required by the job;*
 - (e) *Reliability, including showing up on time, wearing appropriate attire, self-control, motivation, and ethical behavior;*
 - (f) *Remaining drug free; and*
 - (g) *Working well with others, including effective communication skills, respect for different points of view and diversity of coworkers, the ability to cooperate and collaborate, enthusiasm, and the ability to provide appropriate leadership to or support for colleagues.*
- (2) (a) *A school district shall use the essential workplace ethics characteristics listed in subsection (1) of this section when creating a program or when choosing an existing program.*
- (b) *Each school district's local workforce investment board, in conjunction with local economic development organizations from its state regional sector, and other economic, workforce, or industry organizations the workforce investment board deems necessary, shall recommend to the school*

district best practices which may be used by schools to implement an essential workplace ethics program.

- (3) *By January 1, 2019, and every two (2) years thereafter, each local school board shall collaborate with the local workforce investment board, in conjunction with local economic development organizations from its state regional sector, and other economic, workforce, or industry organizations the workforce investment board deems necessary, to establish essential workplace ethics indicators for middle and high school students that are aligned with the essential workplace ethics characteristics listed in subsection (1) of this section.*
- (4) *Each local school board shall design and adopt a diploma seal, certificate, card, or other identifiable symbol to award students deemed as having minimally demonstrated attainment of the local board's essential workplace ethics indicators.*
- (5) *By September 1, 2019, and every two (2) years thereafter, the superintendent of each school district shall provide to the commissioner of education and the Kentucky Workforce Innovation Board a report, in a format specified by the commissioner, describing the school district's essential work ethics programs and how they are being implemented at each school. A summary report compiled by the commissioner that includes information from all local school district reports shall be provided to the Kentucky Board of Education, the Interim Joint Committee on Education, the Kentucky Workforce Innovation Board and each Kentucky superintendent and principal in order to foster program improvement and the sharing of best practices.*

➔Section 2. KRS 158.6453 is amended to read as follows:

- (1) As used in this section:

- (a) "Accelerated learning" means an organized way of helping students meet individual academic goals by providing direct instruction to eliminate student performance deficiencies or enable students to move more quickly through course requirements and pursue higher level skill development;
- (b) "Constructed-response items" or "performance-based items" means individual test items that require the student to create an answer rather than select a response and may include fill-in-the-blank, short-answer, extended-answer, open-response, and writing-on-demand formats;
- (c) "Criterion-referenced test" means a test that is aligned with defined academic content standards and measures an individual student's level of performance against the standards;
- (d) "End-of-course examination" means the same as defined in KRS 158.860;
- (e) "Formative assessment" means a process used by teachers and students during instruction to adjust ongoing teaching and learning to improve students' achievement of intended instructional outcomes. Formative assessments may include the use of commercial assessments, classroom observations, teacher-designed classroom tests and assessments, and other processes and assignments to gain information about individual student learning;
- (f) "Interim assessments" means assessments that are given periodically throughout the year to provide diagnostic information and to show individual student performance against content standards;
- (g) "Summative assessment" means an assessment given at the end of the school year, semester, or other period of time to evaluate students' performance against content standards within a unit of instruction or a course; and
- (h) "Writing" means a purposeful act of thinking and expression that uses language to explore ideas and communicate meaning to others. Writing is a complex, multifaceted act of communication.

- (2) (a) Beginning in fiscal year 2017-2018, and every six (6) years thereafter, the Kentucky Department of Education shall implement a process for reviewing Kentucky's academic standards and the alignment of corresponding assessments for possible revision or replacement to ensure alignment with postsecondary readiness standards necessary for global competitiveness and with state career and technical education standards.
- (b) The revisions to the content standards shall:
 - 1. Focus on critical knowledge, skills, and capacities needed for success in the global economy;
 - 2. Result in fewer but more in-depth standards to facilitate mastery learning;

3. Communicate expectations more clearly and concisely to teachers, parents, students, and citizens;
 4. Be based on evidence-based research;
 5. Consider international benchmarks; and
 6. Ensure that the standards are aligned from elementary to high school to postsecondary education so that students can be successful at each education level.
- (c) 1. The department shall establish four (4) standards and assessments review and development committees, with each committee composed of a minimum of six (6) Kentucky public school teachers and a minimum of two (2) representatives from Kentucky institutions of higher education, including at least one (1) representative from a public institution of higher education. Each committee member shall teach in the subject area that his or her committee is assigned to review and have no prior or current affiliation with a curriculum or assessment resources vendor.
2. One (1) of the four (4) committees shall be assigned to focus on the review of language arts and writing academic standards and assessments, one (1) on the review of mathematics academic standards and assessments, one (1) on the review of science academic standards and assessments, and one (1) on the review of social studies academic standards and assessments.
- (d) 1. The department shall establish twelve (12) advisory panels to advise and assist each of the four (4) standards and assessments review and development committees.
2. Three (3) advisory panels shall be assigned to each standards and assessments review and development committee. One (1) panel shall review the standards and assessments for kindergarten through grade five (5), one (1) shall review the standards and assessments for grades six (6) through eight (8), and one (1) shall review the standards and assessments for grades nine (9) through twelve (12).
3. Each advisory panel shall be composed of at least one (1) representative from a Kentucky institution of higher education and a minimum of six (6) Kentucky public school teachers who teach in the grade level and subject reviewed by the advisory panel to which they are assigned and have no prior or current affiliation with a curriculum or assessment resources vendor.
- (e) The commissioner of education and the president of the Council on Postsecondary Education shall also provide consultants for the standards and assessments review and development committees and the advisory panels who are business and industry professionals actively engaged in career fields that depend on the various content areas.
- (f) 1. The standards and assessments process review committee is hereby established and shall be composed of ten (10) members, including:
- a. Three (3) members appointed by the Governor;
 - b. Three (3) members of the Senate appointed by the President of the Senate;
 - c. Three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and
 - d. The commissioner of education.
2. The review of the committee shall be limited to the procedural aspects of the review process undertaken prior to its consideration.
- (g) 1. The review process implemented under this subsection shall be an open, transparent process that allows all Kentuckians an opportunity to participate. The department shall ensure the public's assistance in reviewing and suggesting changes to the standards and alignment adjustments to corresponding state assessments by establishing a Web site dedicated to collecting comments by the public and educators. An independent third party, which has no prior or current affiliation with a curriculum or assessment resources vendor, shall be selected by the department to collect and transmit the comments to the department for dissemination to the appropriate advisory panel for review and consideration.
2. Each advisory panel shall review the standards and assessments for its assigned subject matter and grade level and the suggestions made by the public and educators. After completing its

review, each advisory panel shall make recommendations for changes to the standards and alignment adjustments for assessments to the appropriate standards and assessments review and development committee.

3. Each standards and assessments review and development committee shall review the findings and make recommendations to revise or replace existing standards and to adjust alignment of assessments to the standards and assessments process review committee.
 4. The recommendations shall be published on the Web site established in this subsection for the purpose of gathering additional feedback from the public. The commissioner, on behalf of the standards and assessments process review committee, shall subsequently present the recommendations and the public feedback to the Interim Joint Committee on Education.
 5. The commissioner shall subsequently provide a report to the standards and assessments process review committee summarizing the process conducted under this subsection and the resulting recommendations. The report shall include but not be limited to the timeline of the review process, public feedback, and responses from the Interim Joint Committee on Education.
 6. After receiving the commissioner's report, the standards and assessments process review committee shall either concur that stakeholders have had adequate opportunity to provide input on standards and the corresponding alignment of state assessments or find the input process deficient. If the process is found deficient, the recommendations may be returned to the appropriate standards and assessments review and development committee for review as described in subparagraph 3. of this paragraph. If the process is found sufficient, the recommendations shall be forwarded without amendment to the Kentucky Board of Education.
- (h) The Kentucky Board of Education shall promulgate administrative regulations in accordance with KRS Chapter 13A as may be needed for the administration of the review process, including staggering the timing and sequence of the review process by subject area and remuneration of the review and development committees and advisory panels described in paragraphs (c) and (d) of this subsection.
- (i)
1. The Kentucky Board of Education shall consider for approval the revisions to academic standards for a content area and the alignment of the corresponding state assessment once recommendations are received from the standards and assessments process review committee. Existing state academic standards shall remain in place until the board approves new standards.
 2. Any revision to, or replacement of, the academic standards and assessments as a result of the review process conducted under this subsection shall be implemented in Kentucky public schools no later than the second academic year following the review process. Existing academic standards shall be used until new standards are implemented.
 3. The Department of Education shall disseminate the academic content standards to the schools and teacher preparation programs.
- (j) The Department of Education shall provide or facilitate statewide training sessions for existing teachers and administrators on how to:
1. Integrate the revised content standards into classroom instruction;
 2. Better integrate performance assessment of students within their instructional practices; and
 3. Help all students use higher-order thinking and communication skills.
- (k) The Education Professional Standards Board in cooperation with the Kentucky Board of Education and the Council on Postsecondary Education shall coordinate information and training sessions for faculty and staff in all of the teacher preparation programs in the use of the revised academic content standards. The Education Professional Standards Board shall ensure that each teacher preparation program includes use of the academic standards in the pre-service education programs and that all teacher interns will have experience planning classroom instruction based on the revised standards.
- (l) The Council on Postsecondary Education in cooperation with the Kentucky Department of Education and the postsecondary education institutions in the state shall coordinate information sessions regarding the academic content standards for faculty who teach in the various content areas.
- (3) (a) The Kentucky Board of Education shall be responsible for creating and implementing a balanced statewide assessment program that measures the students', schools', and districts' achievement of the

goals set forth in KRS 158.645 and 158.6451, to ensure compliance with the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor, and to ensure school accountability.

- (b) The board shall revise the annual statewide assessment program as needed in accordance with revised academic standards and corresponding assessment alignment adjustments approved by the board under subsection (2) of this section.
 - (c) The statewide assessments shall not include any academic standards not approved by the board under subsection (2) of this section.
 - (d) The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; the Education Assessment and Accountability Review Subcommittee, and the National Technical Advisory Panel on Assessment and Accountability in the development of the assessment program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.
- (4) (a) The academic components of the statewide assessment program shall be composed of annual student summative tests, which may include a combination of multiple competency-based assessment and performance measures approved by the Kentucky Board of Education.
- (b) The annual student summative tests shall:
- 1. Measure individual student achievement in language, reading, English, mathematics, science, and social studies at designated grades;
 - 2. Provide teachers and parents a valid and reliable comprehensive analysis of skills mastered by individual students;
 - 3. Provide diagnostic information that identifies strengths and academic deficiencies of individual students in the content areas;
 - 4. Provide information to teachers that can enable them to improve instruction for current and future students;
 - 5. Provide longitudinal profiles for students; and
 - 6. Ensure school and district accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451, except the statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.
- (5) The state student assessments shall include the following components:
- (a) Elementary and middle grades requirements are:
- 1. A criterion-referenced test each in mathematics and reading in grades three (3) through eight (8) that is valid and reliable for an individual student and that measures the depth and breadth of Kentucky's academic content standards;
 - 2. A criterion-referenced test each in science and social studies that is valid and reliable for an individual student as necessary to measure the depth and breadth of Kentucky's academic content standards to be administered one (1) time within the elementary and middle grades, respectively;
 - 3. An on-demand assessment of student writing to be administered one (1) time within the elementary grades and one (1) time within the middle grades; and
 - 4. An editing and mechanics test relating to writing, using multiple choice and constructed response items, to be administered one (1) time within the elementary and the middle grades, respectively;
- (b) High school requirements are:
- 1. A criterion-referenced test in mathematics, reading, and science that is valid and reliable for an individual student and that measures the depth and breadth of Kentucky's academic content standards to be administered one (1) time within the high school grades;
 - 2. A criterion-referenced test in social studies that is valid and reliable for an individual student as necessary to measure the depth and breadth of Kentucky's academic content standards to be administered one (1) time within the high school grades;

3. An on-demand assessment of student writing to be administered one (1) time within the high school grades;
 4. An editing and mechanics test relating to writing, using multiple choice and constructed response items, to be administered one (1) time within the high school grades; and
 5. A college admissions examination to assess English, reading, mathematics, and science in the spring of grade ten (10) and the spring of grade eleven (11);
- (c) The Kentucky Board of Education shall add any other component necessary to comply with the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor, as determined by the United States Department of Education;
 - (d) The criterion-referenced components required in this subsection shall be composed of constructed response items and multiple choice items;
 - (e) The Kentucky Board of Education may incorporate end-of-course examinations into the assessment program to be used in lieu of requirements for criterion-referenced tests required under paragraph (b) of this subsection; and
 - (f) The results of the assessment program developed under this subsection shall be used by schools and districts to determine appropriate instructional modifications for all students in order for students to make continuous progress, including that needed by advanced learners.
- (6) Each school district shall administer the statewide student assessment during the last fourteen (14) days of school in the district's instructional calendar. The Kentucky Board of Education may change the testing window to allow for innovative assessment systems or other online test administration and shall promulgate administrative regulations that minimize the number of days of testing and outline the procedures to be used during the testing process to ensure test security, including procedures for testing makeup days, and to comply with federal assessment requirements.
 - (7) A student enrolled in a district-operated or district-contracted alternative program shall participate in the appropriate assessments required by this section.
 - (8) A local school district may select and use commercial interim or formative assessments or develop and use its own formative assessments to provide data on how well its students are growing toward mastery of Kentucky academic standards, so long as the district's local school board develops a policy minimizing the reduction in instructional time related to the administration of the interim assessments. Nothing in this section precludes teachers from using ongoing teacher-developed formative processes.
 - (9) Each school that enrolls primary students shall use diagnostic assessments and prompts that measure readiness in reading and mathematics for its primary students as determined by the school to be developmentally appropriate. The schools may use commercial products, use products and procedures developed by the district, or develop their own diagnostic procedures. The results shall be used to inform the teachers and parents or guardians of each student's skill level.
 - (10) The state board shall ensure that a technically sound longitudinal comparison of the assessment results for the same students shall be made available.
 - (11) The following provisions shall apply to the college admissions examinations described in subsection (5)(b)5. of this section:
 - (a) The cost of both college admissions examinations administered to students in high school shall be paid for by the Kentucky Department of Education. The costs of additional college admissions examinations shall be the responsibility of the student;
 - (b) If funds are available, the Kentucky Department of Education shall provide a college admissions examination preparation program to all public high school juniors. The department may contract for necessary services; and
 - (c) Accommodations provided to a student with a disability taking the college admissions assessments under this subsection shall consist of:
 1. Accommodations provided in a manner allowed by the college admissions assessment provider when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in subparagraph 2. of this paragraph; or

2. Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under subparagraph 1. of this paragraph when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.
- (12) Kentucky teachers shall have a significant role in the design of the assessments, except for the college admissions exams described in subsection (5)(b)5. of this section. The assessments shall be designed to:
 - (a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application;
 - (b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable;
 - (c) Minimize the time spent by teachers and students on assessment; and
 - (d) Assess Kentucky academic standards only.
 - (13) The results from assessment under subsections (3) and (5) of this section shall be reported to the school districts and schools no later than seventy-five (75) days following the last day the assessment can be administered. Assessment reports provided to the school districts and schools shall include an electronic copy of an operational subset of test items from each assessment administered to their students and the results for each of those test items by student and by school.
 - (14) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.
 - (15) The Department of Education and the state board shall offer optional assistance to local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.
 - (16) The Administration Code for Kentucky's Assessment Program shall include prohibitions of inappropriate test preparation activities by school district employees charged with test administration and oversight, including but not limited to the issue of teachers being required to do test practice in lieu of regular classroom instruction and test practice outside the normal work day. The code shall include disciplinary sanctions that may be taken toward a school or individuals.
 - (17) The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a reporting structure for assessments administered under this section. The reporting structure shall include the following components:
 - (a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and information on electronic access to a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:
 1. Student academic achievement, including the results from each of the assessments administered under this section;
 2. For Advanced Placement, Cambridge Advanced International, and International Baccalaureate, the courses offered, the number of students enrolled, completing, and taking the examination for each course, and the percentage of examinees receiving a score of three (3) or better on AP examinations, a score of "e" or better on Cambridge Advanced International examinations, or a

- score of five (5) or better on IB examinations. The data shall be disaggregated by gender, race, students with disabilities, and economic status;
3. Nonacademic achievement, including the school's attendance, retention, graduation rates, and student transition to postsecondary;
 4. School learning environment, including measures of parental involvement; and
 5. Any other school performance data required by the Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor;
- (b) An individual student report to parents for each student in grades three (3) through eight (8) summarizing the student's skills in reading, science, social studies, and mathematics. The school's staff shall develop a plan for accelerated learning for any student with identified deficiencies or strengths; and
 - (c) A student's highest scores on the college admissions assessments administered under subsection (5)(b)5. of this section.
- (18) (a) Beginning in fiscal year 2017-2018, and every six (6) years thereafter, the Kentucky Department of Education shall implement a comprehensive process for reviewing and revising the academic standards in visual and performing arts and practical living skills and career studies for all levels and in foreign language for middle and high schools. The department shall develop review committees for the standards for each of the content areas that include representation from certified specialist public school teachers and postsecondary teachers in those subject areas.
 - (b) ***The academic standards in practical living skills for elementary, middle, and high school levels shall include a focus on drug abuse prevention, with an emphasis on the prescription drug epidemic and the connection between prescription opioid abuse and addiction to other drugs, such as heroin and synthetic drugs.***
 - (c) The department shall provide to all schools guidelines for programs that incorporate the adopted academic standards in visual and performing arts and practical living and career studies. The department shall provide to middle and high schools guidelines for including a foreign language program. The guidelines shall address program length and time, courses offered, staffing, resources, and facilities.
 - ~~(d)(e)~~ The Kentucky Department of Education, in consultation with certified public school teachers of visual and performing arts, may develop program standards for the visual and performing arts.
- (19) The Kentucky Department of Education shall provide to all schools guidelines for including an effective writing program within the curriculum. Each school-based decision making council or, if there is no school council, a committee appointed by the principal, shall adopt policies that determine the writing program for its school and submit it to the Department of Education for review and comment. The writing program shall incorporate a variety of language resources, technological tools, and multiple opportunities for students to develop complex communication skills for a variety of purposes.
- (20) (a) The Kentucky Department of Education, in consultation with the review committees described in subsection (18) of this section, shall develop a school profile report to be used by all schools to document how they will address the adopted academic standards in their implementation of the programs as described in subsection (18) of this section, which may include student opportunities and experiences in extracurricular activities. ***The department shall include the essential workplace ethics program on the school profile report.***
 - (b) By October 1 of each year, each school principal shall complete the school profile report, which shall be signed by the members of the school council, or the principal if no school council exists, and the superintendent. The report shall be electronically transmitted to the Kentucky Department of Education, and the original shall be maintained on file at the local board office and made available to the public upon request. The department shall include a link to each school's profile report on its Web site.
 - (c) If a school staff member, student, or a student's parent has concerns regarding deficiencies in a school's implementation of the programs described in subsection (18) of this section, he or she may submit a written inquiry to the school council.

➔Section 3. No later than December 31, 2018, the Office of Drug Control Policy shall develop recommendations for the instruction in drug abuse prevention that is required for practical living skills education

under subsection (18)(b) of Section 2 of this Act, and submit them to the Department of Education. Upon receiving the recommendations, the department shall publish them in a prominent location on the department's Web site for use by schools in developing their practical living skills curriculum.

➔Section 4. Whereas instruction on drug abuse prevention is essential to the lifetime health of Kentucky students, an emergency is declared to exist, and Section 2 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 13, 2018.

CHAPTER 159

(HB 1)

AN ACT relating to child welfare.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

- (1) *The Child Welfare Oversight and Advisory Committee of the Kentucky General Assembly is hereby established. The purpose of the committee shall be to review, analyze, and provide oversight to the General Assembly on child welfare within the Commonwealth related but not limited to foster care, adoption, and child abuse, neglect, and dependency.*
- (2) *The Child Welfare Oversight and Advisory Committee shall consist of ten (10) members appointed as follows: three (3) members of the Senate appointed by the President of the Senate; two (2) members of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and two (2) members of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. Members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair.*
- (3) *The co-chairs of the Child Welfare Oversight and Advisory Committee shall have joint responsibilities for committee meeting agendas and presiding at committee meetings. The committee shall meet at least two (2) times annually.*
- (4) *A majority of the entire membership of the Child Welfare Oversight and Advisory Committee shall constitute a quorum, and all actions of the committee shall be by vote of a majority of its entire membership.*
- (5) *The Legislative Research Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of this section. Staff and operating costs of the Child Welfare Oversight and Advisory Committee shall be provided from the budget of the Legislative Research Commission.*

➔Section 2. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of Communications and Administrative Review, an Office of Legal Services, an Office of Inspector General, an Office of the Ombudsman, and the Governor's Office of Electronic Health Information.
 - (a) The Office of Communications and Administrative Review shall include oversight of administrative hearings and communications with internal and external audiences of the cabinet. The Office of Communications and Administrative Review shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
 - (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.

and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.

(c) The Office of Inspector General shall be responsible for:

1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
2. Licensing and regulatory functions as the secretary may delegate;
3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963; and
4. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary.

~~(d) [The Office of the Ombudsman shall provide professional support in the evaluation of programs, including but not limited to quality improvement and information analysis and reporting, contract monitoring, program monitoring, and the development of quality service delivery, and a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies. The Office of the Ombudsman shall place an emphasis on research and best practice and program accountability and shall monitor federal compliance. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.]~~

~~(e) [The Governor's Office of Electronic Health Information shall provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services. The Governor's Office of Electronic Health Information shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;]~~

- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. This shall include but not be limited to oversight of the Division of Women's Health. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall develop and administer programs for the

prevention of mental illness, intellectual disabilities, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have an intellectual disability, brain injury, developmental disability, or a substance abuse disorder. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall be headed by a commissioner for behavioral health, developmental and intellectual disabilities who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for behavioral health, developmental and intellectual disabilities shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for behavioral health, developmental and intellectual disabilities shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;

- (5) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall ensure the administration of services for children with disabilities as are deemed appropriate by the commission pursuant to Title V of the Social Security Act. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director. The executive director shall be appointed by the secretary with the approval of the Governor under KRS 12.050;
- (6) Office of Health Policy. The Office of Health Policy shall lead efforts to coordinate health care policy, including Medicaid, behavioral health, developmental and intellectual disabilities, mental health services, services for individuals with an intellectual disability, public health, certificate of need, and health insurance. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office. The Office of Health Policy shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050;
- (7) Department for Family Resource Centers and Volunteer Services. The Department for Family Resource Centers and Volunteer Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Family Resource and Youth Services Centers and the Kentucky Commission on Community Volunteerism and Services. The Department for Family Resource Centers and Volunteer Services shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for family resource centers and volunteer services shall be by training and experience in administration and management qualified to perform the duties of the office, shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- (8) Office of Administrative and Technology Services. The Office of Administrative and Technology Services shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The office shall have responsibility for properties and facilities owned, maintained, or managed by the cabinet. The Office of Administrative and Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall exercise authority over the Office of Administrative and Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (9) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (10) The Office of Finance and Budget shall provide central review and oversight of budget, contracts, and cabinet finances. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

- (11) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, violence prevention resources, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (12) Department for Income Support. The Department for Income Support shall be responsible for child support enforcement and disability determination. The department shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (13) Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of adult day care and assisted living facilities, the state Council on Alzheimer's Disease and other related disorders, the Institute on Aging, and guardianship services. The department shall also administer the Long-Term Care Ombudsman Program and the Medicaid Home and Community Based Waivers Consumer Directed Option (CDO) Program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;~~and~~
- (14) The Office of Legislative and Regulatory Affairs shall provide central review and oversight of legislation, policy, and administrative regulations. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; *and*
- (15) *The Office of the Ombudsman shall investigate, upon complaint or on its own initiative, any administrative act of an agency, employee, or contractor of the cabinet, without regard to the finality of the administrative act. Agencies, employees, or contractors shall not restrict access to records or personnel. The Office of the Ombudsman shall make recommendations that resolve citizen complaints and improve governmental performance, and may request corrective action when policy violations are noted. The Office of the Ombudsman shall provide evaluation and information analysis of cabinet performance and compliance with state and federal policy. The Office of the Ombudsman shall place an emphasis on research and best practices, program accountability, quality service delivery, and improved governmental performance. The Office of the Ombudsman shall ensure that information relating to how to contact the office shall be publically posted at all facilities where agency employees or contractors work, publically posted at any facility where a child in the custody of the cabinet resides or is treated, and given to all cabinet or contracted foster parents. The Office of the Ombudsman shall report to the Office of Inspector General any charge or case against an employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her job duties. The Office of the Ombudsman shall compile a report of all citizen complaints about programs or services of the cabinet and a summary of resolution of the complaints and shall submit the report by December 1 of each year to the Child Welfare Oversight and Advisory Committee established in Section 1 of this Act and the Interim Joint Committee on Health and Welfare and Family Services. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.*

➔Section 3. KRS 199.461 is amended to read as follows:

- (1) As used in this section, "social service worker" means a social worker employed by the Cabinet for Health and Family Services, Department for Community Based Services, to provide direct casework services in foster care, child protection, juvenile services, or adult protection.
- (2) As used in this section, "active case" includes the total number of cases for which the family service worker has responsibility.

- (3) The monthly statewide caseload average for social service workers in the area of foster care, child protection, juvenile services, or adult protection shall not exceed twenty-five (25) active cases.
- (4) Nothing in this section shall prevent the department or a social service worker from handling emergencies to carry out statutory mandates. If the monthly **regional, county, or** statewide caseload average for social service workers exceeds twenty-five (25) active cases for ninety (90) consecutive days, the department shall report the fact to the Governor and to the Legislative Research Commission together with a description of the factors contributing thereto and shall make recommendations related thereto. The report shall include, by county and **region**~~district~~, social service worker caseload averages; the number of established social service worker positions; and the number of vacant social service worker positions.

➔Section 4. KRS 199.470 is amended to read as follows:

- (1) Any person who is eighteen (18) years of age and who is a resident of this state or who has resided in this state for twelve (12) months next before filing may file a petition for leave to adopt a child in the Circuit Court of the county in which the petitioner resides.
- (2) If the petitioner is married, the husband or wife shall join in a petition for leave to adopt a child unless the petitioner is married to a biological parent of the child to be adopted, except that if the court finds the requirement of a joint petition would serve to deny the child a suitable home, the requirement may be waived.
- (3) If a child is placed for adoption by the cabinet, by an agency licensed by the cabinet, or with written approval by the secretary of the cabinet, the petition may be filed at the time of placement. In all other adoptions, the petition shall not be filed until the child has resided continuously in the home of the petitioner for at least ninety (90) days immediately prior to the filing of the adoption petition.
- (4) No petition for adoption shall be filed unless prior to the filing of the petition the child sought to be adopted has been placed for adoption by a child-placing institution or agency, or by the cabinet, or the child has been placed with written approval of the secretary; but no approval shall be necessary in the case of:
 - (a) A child sought to be adopted by a **blood relative, including a relative of half-blood, first cousin, aunt, uncle, nephew, niece, and a person of a preceding generation as denoted by prefixes of grand, great, or great-great; stepparent; step-sibling; or fictive kin**~~stepparent, grandparent, sister, brother, aunt, uncle, great-grandparent, great-aunt, or great-uncle~~; however, the court in its discretion may order a report in accordance with KRS 199.510 and a background check as provided in KRS 199.473(8);
 - (b) A child received by the proposed adopting parent or parents from an agency without this state with the written consent of the secretary; ~~or~~
 - (c) A child adopted under the provisions of KRS 199.585(1); **or**
 - (d) **A child who has been approved under KRS Chapter 615.**

~~{(5) Subsection (4) of this section shall not apply to children placed for adoption prior to June 14, 1962.}~~

➔Section 5. KRS 199.641 is amended to read as follows:

- (1) As used in this section, unless the context otherwise requires:
 - (a) "Allowable costs report" means a report from each child-caring facility **or child-placing agency** that contracts with the department for services and includes all allowable costs as defined by the Federal Office of Management and **Budget's guidance, including Title 2 of the Code of Federal Regulations**~~Budget circular A 122, "cost principles for nonprofit organizations,"~~ and other information the department may require, utilizing cost data from each child-caring facility's **or child-placing agency's** most recent yearly audited financial statement;
 - (b) ~~{"Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility;~~
 - ~~(c) {"Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;~~
 - ~~(c){(d)}~~ "Model program cost analysis" means a report based on a time study, the allowable costs report, and other information required by the department from each child-caring facility **or child-placing**

agency that contracts with the department for services that determines a statewide median cost for each licensed program category of service provided by child-caring facilities **or child-placing agencies**; and

~~(d)(e)~~ "Time study" means the process of reporting the work performed by employees of child-caring facilities **or child-placing agencies** in specified time periods.

- (2) Subject to the limitations set forth in subsection (4) of this section, when the department chooses to contract with a ~~nonprofit~~ child-caring facility **or child-placing agency** for services to a child **in the custody of or** committed to the department, the department shall make payments to that facility based on the rate setting methodology developed from the model program cost analysis. The department shall also assure that the methodology:
 - (a) Provides payment incentives for moving children as quickly as possible to a permanent, continuous, stable environment;
 - (b) Provides children who require out-of-home care or alternative treatment with placements that are as close as possible to their home geographic area **and ensure continuity with their families, schools, faiths, and communities**; ~~and~~
 - (c) Provides appropriate placement and treatment services that effectively and efficiently meet the needs of the child and the child's family as close as possible to the child's home geographic area; **and**
 - (d) **Facilitates provider participation in the State Medicaid Program established in accordance with KRS Chapter 205.**
- (3) The department shall use the model program cost analysis as a basis for cost estimates for the development of the department's biennial budget request.
- (4) The secretary shall, to the extent funds are appropriated, establish and implement the rate setting methodology and rate of payment by promulgation of administrative regulations in accordance with KRS Chapter 13A that are consistent with the level and quality of service provided by child-caring facilities. The administrative regulations shall also include the forms and formats for the model program cost analysis.
- (5) **Nothing in this section shall prohibit the department from soliciting proposals to improve or expand alternative services for children in the custody of or committed to the cabinet.**

➔Section 6. KRS 199.800 is amended to read as follows:

For the purposes of KRS 199.800 to **199.801**~~199.805~~:

- (1) "Department" means the Department for Community Based Services;
- (2) "Home county" means the county in which the child's natural parents, adoptive parents, or guardian reside. If the parents are divorced, the home county is the county of residence of the parent with legal custody. If the child is committed, the home county is the county of original commitment or case responsibility;
- (3) **"Home region"**~~"Home district"~~ means the Department for Community Based Services **region**~~district~~ in which the child's home county is located;
- (4) "Type of placement" means the living arrangement, including family foster **home, child-caring facility**,~~care, private child care,~~ or other residential alternative that is deemed appropriate for a child as determined by the **department**~~district placement coordinator and the social service worker with case responsibility~~; and
- (5) "Unmet need" means the type of facility or placement needed to serve the child's needs which is unavailable at the time placement is being sought for the child.

➔Section 7. KRS 199.801 is amended to read as follows:

- (1) The department shall establish a procedure throughout the state that is designed to determine and expedite the placement of children who are in the custody of **or committed to** the department. The procedure shall utilize **state-level and regional placement coordinators**~~a statewide placement coordinator and district placement coordinators~~ who may be state employees or employees of a contracted entity~~, and who shall be assigned and located in each of the department's districts~~.
- (2) **The type of placement selected for a child in the custody of or committed to the department shall be the best alternative for the child that is in closest proximity to the child's home county, including considerations of the child's current early care and education provider or school**~~Upon determining that a child shall be removed from the current living arrangement, the social service worker with responsibility for the child shall~~

~~contact the district placement coordinator to facilitate the placement. In consultation with the social service worker, the district placement coordinator shall determine the appropriate type of placement according to the child's circumstances and needs and shall attempt to locate the appropriate placement within the child's home county.~~

- ~~(3) The living arrangement and placement selected for the child shall be the type of facility that is determined to be the best alternative for the child that is in the closest proximity to the child's home county].~~
- ~~(3){(4)} If the type of placement that best suits the child's needs is not available in the child's home county, the **regional**~~[district]~~ placement coordinator shall document the circumstance as an unmet need and may seek a placement in *surrounding counties, regions, and the state, in that order*~~[another county located within the home district of the child.~~~~
- ~~(5) If the type of placement that best suits the child's needs is not available in the child's home district, the district placement coordinator shall document the circumstance as an unmet need and may seek a placement in surrounding districts by contacting the statewide placement coordinator.~~
- ~~(6) If the type of placement that best suits the child's needs is not available in the districts surrounding the child's home district, the district placement coordinator shall document the circumstance as an unmet need and may seek a placement in any district within the state by contacting the statewide placement coordinator].~~
- ~~(4){(7)} If the type of placement that best suits the child's needs is not available within the state, the **regional**~~[statewide]~~ placement coordinator shall contact the commissioner of the department or the commissioner's designee to explore *out-of-state* placement~~[options]~~.~~
- (5) *The department shall develop a diligent recruitment plan and reporting to support the recruitment and retention of family foster homes that are responsive to the needs of children in care, areas of unmet need, and strategies to meet the need. The plan and reporting shall be used as a guide in the establishment and modification of agreements with placements for the care of children in the custody of or committed to the cabinet and shall be made available upon request{*
- ~~(8) The statewide placement coordinator and every district placement coordinator shall compile information that identifies the unmet needs for their jurisdiction, and shall submit the data and recommendations for meeting the unmet needs to the commissioner of the department.~~
- ~~(9) The commissioner shall develop a state placement resource plan that identifies areas of unmet need and strategies to meet the need. The plan shall be used to guide and, if necessary, restrict the development of new facilities, the expansion of existing facilities, and the geographic location of placement alternatives.~~
- ~~(10) The commissioner and the statewide planning coordinator shall assist the Statewide Strategic Planning Committee for Children in Placement, created in KRS 194A.146, in the development of a statewide facilities services plan].~~

➔SECTION 8. A NEW SECTION OF KRS 199.470 TO 199.590 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section unless the context requires otherwise:*
 - (a) *"Cabinet" means the Cabinet for Health and Family Services; and*
 - (b) *"Home study" has the same meaning as in KRS 615.030(6).*
- (2) *The cabinet shall promulgate by administrative regulations the process, procedures, and requirements to ensure that a uniform establishment and understanding of the definition of, and the required documentation within, any home study required pursuant to this chapter is the same for both public and private agencies.*

➔SECTION 9. A NEW SECTION OF KRS 199.640 TO 199.670 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context otherwise requires;*
 - (a) *"Cabinet" means the Cabinet for Health and Family Services;*
 - (b) *"Performance-based contracting" means an approach that stresses permanency outcomes for children and utilizes a payment structure that reinforces provider agencies' efforts to offer services that improve the outcomes for children; and*
 - (c) *"Secretary" means the secretary of the Cabinet for Health and Family Services.*

- (2) *The secretary shall designate a study group to make recommendations regarding the creation and implementation of performance-based contracting for licensed child-caring facilities and child-placing agencies in the Commonwealth.*
 - (3) *The study group shall be composed of the following members:*
 - (a) *The secretary;*
 - (b) *The commissioner for the Department for Community Based Services;*
 - (c) *The director of the Administrative Office of the Courts, or designee;*
 - (d) *The executive director of the Governor's Office of Early Childhood, or designee;*
 - (e) *One (1) adult who was a former foster child in the Commonwealth;*
 - (f) *One (1) adult who is a current or former foster parent in the Commonwealth;*
 - (g) *Two (2) employees of a licensed child-placing agency;*
 - (h) *Two (2) employees of a licensed child-caring facility; and*
 - (i) *Any personnel within the Department for Community Based Services that the secretary deems necessary.*
 - (4) *In its deliberations, the study group shall include but not be limited to analysis of improved timeliness and likelihood of permanency such as reunification, adoption, or guardianship; fewer moves for children in foster care; and reduced instances of reentry into care.*
 - (5) *The study group shall report its recommendations by December 1, 2018, to the Governor, the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and Family Services, and the Child Welfare Oversight and Advisory Committee established in Section 1 of this Act. The study group shall cease to operate after the delivery of the recommendations required by this subsection.*
 - (6) *By July 1, 2019 the cabinet shall:*
 - (a) *Establish and implement performance-based contracting for licensed child-caring facilities and child-placing agencies that contract with the department for services; and*
 - (b) *Apply and implement all standards, processes, and procedures established for performance-based contracting for licensed child-caring facilities and child-placing agencies in accordance with paragraph (a) of this subsection to all other cabinet-operated programs that are like those operated by child-caring facilities and child-placing agencies.*
 - (7) *The cabinet shall promulgate administrative regulations to implement this section.*
- ➔SECTION 10. KRS 200.575 IS REPEALED AND REENACTED TO READ AS FOLLOWS:
- (1) *As used in this section, unless the context otherwise requires:*
 - (a) *"Department" means the Department for Community Based Services; and*
 - (b) *"Family preservation services" means programs that:*
 1. *Follow intensive, home-based service models with demonstrated effectiveness in reducing or avoiding the need for out-of-home placement;*
 2. *Provide such services that result in lower costs than would out-of-home placement; and*
 3. *Employ specially trained caseworkers who shall:*
 - a. *Provide at least half of their services in the family's home or other natural community setting;*
 - b. *Provide direct therapeutic services available twenty-four (24) hours per day for a family;*
 - c. *Aid in the solution of practical problems that contribute to family stress so as to effect improved parental performance and enhanced functioning of the family unit;*

- d. *Arrange for additional assistance, including but not limited to housing, child care, education, and job training, emergency cash grants, state and federally funded public assistance, and other basic support needs; and*
 - e. *Supervise any paraprofessionals or "family aides" made available to provide specialized services or skills to manage everyday problems and better provide and care for children.*
- (2) *The department shall be the lead administrative agency for family preservation services and may receive funding for the implementation of these services. The department shall:*
 - (a) *Provide the coordination of and planning for the implementation of family preservation services;*
 - (b) *Provide standards for family preservation services programs;*
 - (c) *Monitor these services to ensure they meet measurable standards of performance as set forth in state law and as developed by the department; and*
 - (d) *Provide the initial training and approve any ongoing training required by providers of family preservation services.*
- (3) *The department may provide family preservation services directly or may contract to provide these services. In the event the department provides family preservation services with state caseworkers, those caseworkers and cases shall be excluded for the overall caseworker or case averages provided on a quarterly basis to the Legislative Research Commission and the Governor's office under KRS 199.461. Family preservation services caseworkers and cases shall be included in the report as a separate category.*
- (4) *If the department contracts to provide family preservation services, the contract shall include:*
 - (a) *Requirements for acceptance of any client referred by the department for family preservation services;*
 - (b) *Caseload standards per caseworker;*
 - (c) *Provision of twenty-four (24) hour crisis intervention services to families served by the program;*
 - (d) *Minimum initial and ongoing training standards for family preservation services staff; and*
 - (e) *Internal programmatic evaluation and cooperation with external evaluation as directed by the department.*
- (5) *Family preservation services shall be provided only to those children who are at actual, imminent risk of out-of-home placement:*
 - (a) *Who are at risk of commitment as dependent, abused, or neglected;*
 - (b) *Who are emotionally disturbed; and*
 - (c) *Whose families are in conflict such that they are unable to exercise reasonable control of the child.*
- (6) *Families in which children are at risk of recurring sexual abuse perpetrated by a member of their immediate household who remains in close physical proximity to the victim or whose continued safety from recurring abuse cannot be reasonably ensured, shall not be eligible for family preservation services.*
- (7) *The implementation of family preservation services shall be limited to those situations where protection can be ensured for children, families, and the community.*
- (8) *The provision of family preservation services to a family shall constitute a reasonable effort by the Cabinet for Health and Family Services to prevent the removal of a child from the child's home under KRS 620.140, provided that the family has received timely access to other services from the Cabinet for Health and Family Services for which the family is eligible.*
- (9) *Acceptance of family preservation services shall not be considered an admission to any allegation that initiated the investigation of the family, nor shall refusal of family preservation services be considered as evidence in any proceeding except where the issue is whether the Cabinet for Health and Family Services has made reasonable efforts to prevent removal of a child.*
- (10) *No family preservation services program shall compel any family member to engage in any activity or refrain from any activity, which is not reasonably related to remedying any condition that gave rise, or which could reasonably give rise, to any finding of child abuse, neglect, or dependency.*

- (11) *The commissioner of the department shall conduct and submit to the Child Welfare Oversight and Advisory Committee established in Section 1 of this Act, an annual evaluation of the family preservation services, which shall include the following:*
- (a) *The number of families receiving family preservation services, the number of children in those families, and the number of children in those families who would have been placed in out-of-home care if the family preservation services had not been available;*
 - (b) *Among those families receiving family preservation services, the number of children placed outside the home;*
 - (c) *The average cost per family of providing family preservation services;*
 - (d) *The number of children who remain reunified with their families six (6) months and one (1) year after completion of the family preservation services; and*
 - (e) *An overall evaluation of the progress of family preservation services programs during the preceding year, recommendations for improvements in the delivery of this service, and a plan for the continued development of family preservation services to ensure progress towards statewide availability.*
- (12) *Nothing in this section shall prohibit the department from developing other in-home services in accordance with its statutory authority to promulgate administrative regulations in accordance with KRS Chapter 13A or to enter into contractual arrangements in accordance with KRS Chapter 45.*

➔Section 11. KRS 213.056 is amended to read as follows:

- (1) If a certificate of birth of a living person born in the Commonwealth has not been filed within the time period as provided in KRS 213.046, a certificate of birth may be filed in accordance with the administrative regulations of the cabinet. The certificate shall be registered subject to such evidentiary requirements as the cabinet shall by regulation prescribe to substantiate the alleged facts of birth.
- (2) In accordance with the provisions of this section and the administrative regulations established thereunder, the state registrar may issue a record of foreign birth for a person born outside the United States registration area who is subsequently adopted by a Kentucky resident and whose record of birth cannot be obtained from the country of birth. ~~[Such certificates shall be plainly endorsed, "not evidence of United States citizenship."]~~
- (3) Certificates of birth registered one (1) year or more after the date of birth shall be made on forms prescribed and furnished by the state registrar marked "delayed" and shall show on the face of the certificate the date of the delayed registration.
- (4) A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate.
- (5) The cabinet may refuse to accept any application for a delayed birth certificate or record of foreign birth on which the applicant fails to provide such information as the cabinet may require.
- (6) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

➔Section 12. KRS 213.141 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars (\$5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.
- (2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ten dollars (\$10) to be paid for a certified copy of a record of a birth:
 - (a) Three dollars (\$3) of which shall be used by the Cabinet for Health and Family Services for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children; and
 - (b) One dollar (\$1) of which shall be used by the Division of Maternal and Child Health to pay for therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified foods for all inborn errors of metabolism and genetic conditions if:

1. The therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified food products are medically indicated for the therapeutic treatment of inborn errors of metabolism or genetic conditions and are administered under the direction of a physician; and
 2. The affected person's therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein foods are not covered under any public or private health benefit plan.
- (3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.
- (4) (a) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.
- (b) No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a member of the Kentucky National Guard who has received deployment orders during the sixty (60) days prior to the furnishing of the certificate.
- (c) ***No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a child who is in the custody of or committed to the cabinet, including a child who has extended commitment to the cabinet in accordance with KRS 610.110(6).***
- (5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

➔Section 13. KRS 600.020 is amended to read as follows:

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

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when:
- (a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child:
 1. Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
 2. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
 3. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;
 4. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
 5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
 6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
 7. Abandons or exploits the child;
 8. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child; ***or***
 9. Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining

committed to the cabinet and remaining in foster care for fifteen (15) *cumulative months out of forty-eight (48)*~~[the most recent twenty-two (22)]~~ months; or

- (b) A person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age;
- (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec. 675(11);
- (3) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:
 - (a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;
 - (b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;
 - (c) The parent has sexually abused the child and has refused available treatment;
 - (d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or
 - (e) The parent has caused the child serious physical injury;
- (4) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;
- (5) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;
- (6) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;
- (7) "Cabinet" means the Cabinet for Health and Family Services;
- (8) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
- (9) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;
- (10) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;
- (11) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;
- (12) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;
- (13) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless otherwise provided by law;
- (14) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;
- (15) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

- (16) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;
- (17) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
- (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- (19) "Department" means the Department for Community Based Services;
- (20) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;
- (21) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted or closely supervised environment for his or her own or the community's protection;
- (22) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;
- (23) "Diversion agreement" means a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services to serve the best interest of the child and to provide redress for that behavior without court action and without the creation of a formal court record;
- (24) "Eligible youth" means a person who:
 - (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
 - (b) Is eighteen (18) years of age to nineteen (19) years of age; and
 - (c) Is requesting to extend or reinstate his or her commitment to the cabinet in order to participate in state or federal educational programs or to establish independent living arrangements;
- (25) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- (26) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his or her age, development, culture, and environment as testified to by a qualified mental health professional;
- (27) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;
- (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child;
- (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- (30) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;
- (31) "Graduated sanction" means any of a continuum of accountability measures, programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:
 - (a) Electronic monitoring;
 - (b) Drug and alcohol screening, testing, or monitoring;
 - (c) Day or evening reporting centers;
 - (d) Reporting requirements;
 - (e) Community service; and
 - (f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;

- (32) "Habitual runaway" means any child who has been found by the court to have been absent from his or her place of lawful residence without the permission of his or her custodian for at least three (3) days during a one (1) year period;
- (33) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;
- (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;
- (35) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- (36) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;
- (37) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence to allow for appropriate family engagement;
- (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- (40) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who has not been otherwise charged with a status or public offense;
- (43) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- (45) "Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, fictive kin home, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;
- (46) "Parent" means the biological or adoptive mother or father of a child;
- (47) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- (48) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- (49) "Physical injury" means substantial physical pain or any impairment of physical condition;
- (50) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;
- (51) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would

be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(52) "Qualified mental health professional" means:

- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
- (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
- (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;
- (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
- (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
- (f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; or
- (g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;

(53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);

(54) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(55) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(56) "Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal misconduct;

(57) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(58) "Secretary" means the secretary of the Cabinet for Health and Family Services;

(59) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;

(60) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;

(61) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions in which the parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having

custodial control or supervision of the child or responsibility for his or her welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

- (62) "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;
- (63) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;
- (64) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;
- (65) (a) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall include:
 - 1. Beyond the control of school or beyond the control of parents;
 - 2. Habitual Runaway;
 - 3. Habitual truant;
 - 4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
 - 5. Alcohol offenses as provided in KRS 244.085.(b) Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew;
- (66) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;
- (67) "Transitional living support" means all benefits to which an eligible youth is entitled upon being granted extended or reinstated commitment to the cabinet by the court;
- (68) "Transition plan" means a plan that is personalized at the direction of the youth that:
 - (a) Includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services; and
 - (b) Is as detailed as the youth may elect;
- (69) "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:
 - (a) Who was brought before the court and made subject to the order;
 - (b) Whose future conduct was regulated by the order;
 - (c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and
 - (d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States;
- (70) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;
- (71) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and

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

➔Section 14. KRS 605.120 is amended to read as follows:

- (1) The cabinet is authorized to expend available funds to provide for the board, lodging, and care of children who would otherwise be placed in foster care or who are placed by the cabinet in a foster home or boarding home, or may arrange for payments or contributions by any local governmental unit, or public or private agency or organization, willing to make payments or contributions for such purpose. The cabinet may accept any gift, devise, or bequest made to it for its purposes.
- (2) The cabinet shall establish a reimbursement system, within existing appropriation amounts, for foster parents that comes as close as possible to meeting the actual cost of caring for foster children. The cabinet shall consider providing additional reimbursement for foster parents who obtain additional training, and foster parents who have served for an extended period of time. In establishing a reimbursement system, the cabinet shall, to the extent possible within existing appropriation amounts, address the additional cost associated with providing care to children with exceptional needs.
- (3) The cabinet shall review reimbursement rates paid to foster parents on a biennial basis and shall issue a report in October of each odd-numbered year to the ***Child Welfare Oversight and Advisory Committee established in Section 1 of this Act*** ~~Legislative Research Commission~~ comparing the rates paid by Kentucky to the figures presented in the Expenditures on Children by Families Annual Report prepared by the United States Department of Agriculture and the rates paid to foster parents by other states. To the extent that funding is available, reimbursement rates paid to foster parents shall be increased on an annual basis to reflect cost of living increases.
- (4) The cabinet is encouraged to develop pilot projects both within the state system and in collaboration with private child caring agencies to test alternative delivery systems and nontraditional funding mechanisms.
- (5) To the extent funds are available, the cabinet may establish a program for kinship care, ***monetary provisions for relative caregivers, a guardianship assistance program under Federal Title IV-E of the Social Security Act, and other relative caregiver and fictive kin services*** that ~~support~~ *provides* a ***safe, developmentally appropriate, and more permanent placement with a qualified relative or fictive kin*** for a child ~~who~~ *that* would otherwise be placed in ***another out-of-home placement*** ~~foster care due to abuse, neglect, or death of both parents~~.
- (6) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provision of subsection (5) of this section. ~~The administrative regulations shall include uniform conditions and requirements regarding:~~
 - (a) ~~Eligibility requirements for the kinship caregiver and the child;~~
 - (b) ~~Financial assistance and payment rates; and~~
 - (c) ~~Support services and case management services that may be provided to the kinship caregiver or the child.~~
- (7) Foster parents shall have the authority, ***unless the cabinet determines that the child's religion, race, ethnicity, or national origin prevents it,*** to make decisions regarding haircuts and hairstyles for foster children who are in their care for thirty (30) days or more.

➔Section 15. KRS 610.040 is amended to read as follows:

- (1) After a ***public or status offense*** petition has been filed and after such further investigation as the court may direct, unless the parties appear voluntarily, the court shall issue a summons briefly reciting the substance of the petition and requiring the person who has the custody or control of the child to appear personally and bring the child before the court at a time and place stated. If the person so summoned is other than a parent or guardian of the child, the parent or guardian or both shall also be notified of the pendency of the proceeding and of the time and place appointed. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.
- (2) The summons and notice provided for in subsection (1) of this section shall be served personally by the delivery of a copy thereof to the person summoned, unless the judge is satisfied that personal service would be impracticable, in which event the judge may order service by mail addressed to the last known address. Service by mail shall be deemed to be effected upon mailing. Notice by mail shall be presumed sufficient if mailed at least forty-eight (48) hours before the time for appearance specified in the summons or notice.

- (3) Unless otherwise provided, service of summons or notice may be made by any suitable person, other than an employee of the cabinet, under the direction of the court, and upon request of the court shall be made by any peace officer.
- (4) Any person summoned who, without reasonable cause, fails to appear, may be proceeded against for contempt of court. In case the summons cannot be served, or the parties served fail to appear, or in any case when it appears to the judge that the service will be ineffectual, or that the welfare of the child requires that he be brought forthwith before the court, a warrant may be issued for the parent, guardian, person having custodial control or supervision of the child, or the child.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) *If the cabinet determines that a child, who is in the custody of the cabinet through an emergency, temporary, or permanent court order as a result of dependency, neglect, or abuse and is in foster care, should be moved from a current placement to a new placement or reunified with their family, the cabinet shall provide verbal and written notification to the foster parents and the child-caring facility or child-placing agency where the child is residing at least ten (10) calendar days prior to the new placement or reunification occurring.*
- (2) *The cabinet's mandate to provide the notification required by this section shall not be required if the cabinet determines the child is in imminent danger.*

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

Testimony offered by an alleged responsible parent or person exercising custodial control or supervision in an adjudication of a petition under this chapter for dependency, abuse, or neglect shall not be admissible in any criminal proceeding for charges arising from the same transaction or occurrence except for the purposes of impeachment.

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet may charge a fee of ten dollars (\$10) per background check of the cabinet's child abuse and neglect records when those services are requested by a person for professional, trade, or commercial purposes or for personal use.*
- (2) *The cabinet shall promulgate administrative regulations to establish the central registry and the process for a background check of the cabinet's child abuse and neglect records.*

➔Section 19. KRS 620.050 is amended to read as follows:

- (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.
- (2) Any employee or designated agent of a children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.
- (3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.
- (4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

- (5) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, shall not be divulged to anyone except:
- (a) Persons suspected of causing dependency, neglect, or abuse;
 - (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
 - (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
 - (d) A licensed child-caring facility or child-placing agency evaluating placement for or serving a child who is believed to be the victim of an abuse, neglect, or dependency report;
 - (e) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
 - (f) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
 - (g) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600;
 - (h) Employees or designated agents of a children's advocacy center;
 - (i) Those persons so authorized by court order; or
 - (j) The external child fatality and near fatality review panel established by KRS 620.055.
- (6) (a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services under this chapter are confidential and shall not be disclosed except to the following persons:
- 1. Staff employed by the cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case, ***including a cabinet investigation or assessment of child abuse, neglect, and dependency in accordance with this chapter;***
 - 2. Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms;
 - 3. The court and those persons so authorized by a court order; ~~and~~
 - 4. The external child fatality and near fatality review panel established by KRS 620.055; ***and***
 - 5. ***The parties to an administrative hearing conducted by the cabinet or its designee in accordance with KRS Chapter 13B in an appeal of a cabinet-substantiated finding of abuse or neglect. The children's advocacy center may, in its sole discretion, provide testimony in lieu of files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by the center if the center determines that the release poses a threat to the safety or well-being of the child, or would be in the best interests of the child. Following the administrative hearing and any judicial review, the parties to the administrative hearing shall return all files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by the children's advocacy center to the center.***
- (b) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.
- (7) Nothing in this section shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse ***or neglect*** of a child.
- (8) Nothing in this section shall prohibit employees or designated agents of a children's advocacy center from disclosing information during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information.

- (9) Employees or designated agents of a children's advocacy center may confirm to another children's advocacy center that a child has been seen for services. If an information release has been signed by the guardian of the child, a children's advocacy center may disclose relevant information to another children's advocacy center.
- (10) (a) An interview of a child recorded at a children's advocacy center shall not be duplicated, except that the Commonwealth's or county attorney prosecuting the case may:
1. Make and retain one (1) copy of the interview; and
 2. Make one (1) copy for the defendant's *or respondent's* counsel that the defendant's *or respondent's* counsel shall not duplicate.
- (b) The defendant's *or respondent's* counsel shall file the copy with the court clerk at the close of the case.
- (c) Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed.
- (d) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.
- (11) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:
- (a) To law enforcement officials that have a legitimate interest in the case;
 - (b) To the agency designated by the cabinet to investigate or assess the report;
 - (c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600
 - (d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report; or
 - (e) The external child fatality and near fatality review panel established by KRS 620.055.
- (12) (a) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.
- (b) The cabinet shall conduct an internal review of any case where child abuse or neglect has resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family. The cabinet shall prepare a summary that includes an account of:
1. The cabinet's actions and any policy or personnel changes taken or to be taken, including the results of appeals, as a result of the findings from the internal review; and
 2. Any cooperation, assistance, or information from any agency of the state or any other agency, institution, or facility providing services to the child or family that were requested and received by the cabinet during the investigation of a child fatality or near fatality.
- (c) The cabinet shall submit a report by September 1 of each year containing an analysis of all summaries of internal reviews occurring during the previous year and an analysis of historical trends to the Governor, the General Assembly, and the state child fatality review team created under KRS 211.684.
- (13) When an adult who is the subject of information made confidential by subsection (5) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (5) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.
- (14) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these reports. These photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings *or an administrative hearing conducted by the cabinet or its designee in accordance with KRS Chapter 13B in an appeal of a cabinet-*

substantiated finding of child abuse or neglect. The person performing the diagnostic procedures or taking photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

- (15) In accordance with 42 U.S.C. sec. 671, the cabinet shall share information about a child in the custody of the cabinet with a relative or a parent of the child's sibling for the purposes of:

- (a) Evaluating or arranging a placement for the child;
- (b) Arranging appropriate treatment services for the child; or
- (c) Establishing visitation between the child and a relative, including a sibling of the child.

➔Section 20. KRS 620.060 is amended to read as follows:

- (1) The court for ***the county where the child ordinarily resides or will reside*** or the county where the child is present may issue an ex parte emergency custody order when it appears to the court that removal is in the best interest of the child and that there are reasonable grounds to believe, as supported by affidavit or by recorded sworn testimony, that one (1) or more of the following conditions exist and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child:

- (a) The child is in danger of imminent death or serious physical injury or is being sexually abused;
- (b) The parent has repeatedly inflicted or allowed to be inflicted by other than accidental means physical injury or emotional injury. This condition shall not include reasonable and ordinary discipline recognized in the community where the child lives, as long as reasonable and ordinary discipline does not result in abuse or neglect as defined in KRS 600.020(1); or
- (c) The child is in immediate danger due to the parent's failure or refusal to provide for the safety or needs of the child.

- (2) Custody may be placed with a relative taking into account the wishes of the custodial parent and child or any other appropriate person or agency including the cabinet.

- (3) An emergency custody order shall be effective no longer than seventy-two (72) hours, exclusive of weekends and holidays, unless there is a temporary removal hearing with oral or other notice to the county attorney and the parent or other person exercising custodial control or supervision of the child, to determine if the child should be held for a longer period. The seventy-two (72) hour period also may be extended or delayed upon the waiver or request of the child's parent or other person exercising custodial control or supervision.

- (4) Any person authorized to serve process shall serve the parent or other person exercising custodial control or supervision with a copy of the emergency custody order. If such person cannot be found, the sheriff shall make a good faith effort to notify the nearest known relative, neighbor, or other person familiar with the child.

- (5) Within seventy-two (72) hours of the taking of a child into custody without the consent of his parent or other person exercising custodial control or supervision, a petition shall be filed pursuant to this chapter.

- (6) Nothing herein shall preclude the issuance of arrest warrants pursuant to the Rules of Criminal Procedure.

➔Section 21. KRS 620.070 is amended to read as follows:

- (1) A dependency, neglect, or abuse action may be commenced by the filing of a petition by any interested person in the juvenile session of the District Court.

- (2) After a petition has been filed, the clerk of the court shall issue, and the sheriff or other ***person*** authorized ***to serve process, except an employee of the Cabinet for Health and Family Services***~~agent~~ shall serve, a copy of the petition and a summons to the parent or other person exercising custodial control or supervision, unless their identity or location is unknown, in which case the petition and summons shall be served ***as directed by the court, which means may include service on the nearest known adult relative, service by mail to the last known address, or other service directed by the court and given in a manner reasonably calculated to give actual notice. Service may be by warning order if other means are not effective***~~on the nearest known adult relative~~.

- (3) The summons shall include an explanation of the importance of the petition and an explanation of the rights of the parent or other person exercising custodial control in any subsequent proceedings. The summons shall emphasize the importance of immediately contacting the court about legal representation and to be advised of the date, time, and place when the parent or other person exercising custodial control or supervision is to

appear before the court. The summons shall include written notification that the case may be reviewed by a local citizen foster care review board and the report of the board review shall become part of the court record.

➔Section 22. KRS 620.180 is amended to read as follows:

- (1) The cabinet may promulgate administrative regulations to implement the provisions of this chapter. The cabinet may also promulgate administrative regulations pursuant to the requirements of Public Law 96-272 as to the maximum number of children who at any time during a fiscal year, will remain in foster care after having been in such care for a period in excess of twenty-four (24) months, together with the steps to be taken to achieve such goal.
- (2) The cabinet shall promulgate administrative regulations to provide the following:
 - (a) The method used to periodically review the status of children placed in foster family homes which shall include, but not be limited to, the following:
 1. Within ***ten (10) calendar***~~[five (5)]~~ days~~[, exclusive of weekends and holidays,]~~ of the temporary removal hearing provided for in this chapter, a case conference shall be held on all children placed with the cabinet for the purpose of establishing a specific treatment plan which may include preventive and reunification services for the child and his parent or other person exercising custodial control or supervision. Additional case conferences and reviews shall be held as appropriate, but shall be held at least every six (6) months. The parent or other person exercising custodial control or supervision and his counsel, if any, shall have the right to be present at and participate in such conferences. The child; the child's attorney, if any; the parent or other person exercising custodial control or supervision and his attorney of record, if any; and the county attorney shall be notified of, and may be present at and participate in such conferences;
 2. On-going case work and supportive services shall be provided as indicated to best meet the needs of the child as established by the review and planning process; and
 3. There may be procedures for providing for appropriate visitation between the parents and the child based on the needs of the child;~~[and]~~
 - (b) The procedures for reporting to a committing court the status and plans for children committed to the cabinet as dependent, neglected or abused and placed in foster family homes; ~~and~~~~[]~~
 - (c) ***By January 1, 2019, the establishment and implementation of the processes, procedures, and requirements to ensure that children committed to the cabinet as dependent, neglected, or abused and placed in foster family homes are timely reunified with their biological family or identified for and placed in a new permanent home. These processes, procedures, and requirements shall include but not be limited to the following:***
 1. ***A case review and recommendation submitted to the committing court related to whether the best interest of the child is reunification or termination of parental rights after the child has been committed to the cabinet a total of six (6) cumulative months;***
 2. ***An additional case review and recommendation submitted to the committing court every three (3) cumulative months after the initial six (6) months if a child is still in the custody of the cabinet;***
 3. ***A petition to the court of appropriate jurisdiction seeking the termination of parental rights and authority to place the child for adoption in accordance with this chapter and KRS Chapter 625 no later than after a child has been committed to the cabinet for a total of fifteen (15) cumulative months out of forty-eight (48) months; and***
 4. ***A plan to ensure, no longer than thirty (30) working days after a court enters a judgment of termination of parental rights to a child that is committed to the cabinet, that the cabinet shall complete and submit to the court all necessary paperwork to facilitate the child's permanency plan, including but not limited to the presentation summary and identification of an adoptive home if determined.***

➔Section 23. KRS 620.270 is amended to read as follows:

- (1) Subject to the provisions of KRS 620.230, the local citizen foster care review board shall review the case of each child placed in the custody of the cabinet by an order of temporary custody or commitment by the court

in the county or counties which the local board serves. The review shall occur at least once every six (6) months until the child is no longer in the custody of the cabinet or until an adoption proceeding becomes final.

- (2) During each six (6) month review, the local citizen foster care review board shall review:
 - (a) The past, current, and future status of the child and his placement as shown through the case permanency plan, case record, case progress reports submitted by the cabinet, and other information as the board may require;
 - (b) The efforts or adjustment the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time considering the age of the child;
 - (c) The efforts of the cabinet to locate and provide services to the biological parents of the child;
 - (d) The efforts of the cabinet and other agencies to facilitate the return of the child to the home or to find an alternative permanent placement if reunion with the parent or previous custodian is not feasible. The cabinet shall report to the board all factors which either favor or mitigate against any decision or alternative with regard to these matters; and
 - (e) Any problems, solutions, or alternatives which may be capable of exploration, or other matters with regard to the child as the cabinet or the board determine to be explored with regard to the best interests of the state or of the child.
- (3) Upon completion of a training curriculum developed and provided jointly by the Administrative Office of the Courts and by the Department for Community Based Services and approved by the state review board in regard to child sexual abuse, the local citizen foster care review board may review, at the discretion of the board, a sample of all petitions filed in the District Court of the county served by the board alleging sexual abuse of any child, not to exceed two hundred (200) petitions per year statewide, in order to determine the adequacy of the investigation, and the appropriateness of findings, adjudication, and disposition of the court. The board shall have access to all records of the cabinet, medical professionals, and law enforcement agencies pertaining to these cases. The board shall provide the cabinet and the court a full report of the findings and recommendations concerning the review.
- (4) Notice of *the six (6) month interested party*~~[this]~~ review and the right to attend and participate in the *six (6) month interested party* review shall be provided to the child's parents, if parental rights have not been terminated or surrendered; the parent's attorney; the guardian ad litem, the attorney for the child, or both; the foster parents; the prospective adoptive parent; the relative providing care for the child; and the child who is a party to the proceeding. The cabinet *shall provide the Administrative Office of the Courts Citizen Foster Care Review Board with the names, addresses, and any other needed contact information in order to provide adequate, timely*~~[and the court shall develop adequate procedures to provide]~~ notice of the review to these persons.
- (5) *At least twice annually, the local citizen foster care review boards shall participate in regional community forums for members of the public to discuss areas of concern regarding the foster care system and to identify barriers to timely permanency, well-being and safety for children in out-of-home care. The boards shall report their findings to the State Citizen Foster Care Review Board in accordance with KRS 620.340.*

➔Section 24. KRS 620.290 is amended to read as follows:

- (1) The local citizen foster care review board shall submit to the court within fourteen (14) days of the six (6) month review its findings and recommendations. The findings and recommendations for each child under review shall include but need not be limited to:
 - (a) Whether there is a plan for permanence;
 - (b) Whether the plan is progressing; and
 - (c) The appropriateness of the current placement or plan for permanence. If the local foster care review board determines that a current placement or plan for permanence is inappropriate, a ~~separate~~ notification shall be provided to the court, and the cabinet which shall summarize the position of the local foster care review board, the response of the cabinet, if any, to the concerns expressed by the local foster care review board, and any action proposed by the local foster care review board.
- (2) The local foster care review board shall submit to the court, with a copy to the cabinet, within fourteen (14) days of each meeting of the board, a list of each case reviewed in which a child has been moved three (3) or

more times within a six (6) month period. The list shall include the name of the case, the court number, if available, the cabinet case number, the age, sex, and race of the child, and the number of moves that have occurred.

➔Section 25. KRS 620.310 is amended to read as follows:

- (1) There is hereby established a State Citizen Foster Care Review Board. The State Citizen Foster Care Review Board shall consist of all chairmen of the local foster care review boards.
- (2) The State Citizen Foster Care Review Board shall **biennially**~~annually~~ elect a chairman and vice chairman to serve in the absence of the chairman.
- (3) The State Citizen Foster Care Review Board shall meet at least annually, and more frequently upon the call of the chairman, or as the board shall determine.
- (4) Members of the State Citizen Foster Care Review Board may only receive compensation for travel mileage cost and overnight lodging at a rate consistent with that provided to state employees as provided under the law of the Commonwealth.

➔Section 26. KRS 625.090 is amended to read as follows:

- (1) The Circuit Court may involuntarily terminate all parental rights of a parent of a named child, if the Circuit Court finds from the pleadings and by clear and convincing evidence that:
 - (a)
 1. The child has been adjudged to be an abused or neglected child, as defined in KRS 600.020(1), by a court of competent jurisdiction;
 2. The child is found to be an abused or neglected child, as defined in KRS 600.020(1), by the Circuit Court in this proceeding;~~or~~
 3. ***The child is found to have been diagnosed with neonatal abstinence syndrome at the time of birth, unless his or her birth mother:***
 - a. ***Was prescribed and properly using medication for a legitimate medical condition as directed by a health care practitioner that may have led to the neonatal abstinence syndrome; or***
 - b. ***Is currently, or within ninety (90) days after the birth, enrolled in and maintaining substantial compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care or postnatal care as recommended by her health care practitioner throughout the remaining term of her pregnancy or the appropriate time after her pregnancy; or***
 4. The parent has been convicted of a criminal charge relating to the physical or sexual abuse or neglect of any child and that physical or sexual abuse, neglect, or emotional injury to the child named in the present termination action is likely to occur if the parental rights are not terminated;
 - (b) ***The Cabinet for Health and Family Services has filed a petition with the court pursuant to Section 22 of this Act;*** and
 - (c)~~(b)~~ Termination would be in the best interest of the child.
- (2) No termination of parental rights shall be ordered unless the Circuit Court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:
 - (a) That the parent has abandoned the child for a period of not less than ninety (90) days;
 - (b) That the parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;
 - (c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;
 - (d) That the parent has been convicted of a felony that involved the infliction of serious physical injury to any child;
 - (e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and

protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

- (f) That the parent has caused or allowed the child to be sexually abused or exploited;
 - (g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child;
 - (h) That:
 - 1. The parent's parental rights to another child have been involuntarily terminated;
 - 2. The child named in the present termination action was born subsequent to or during the pendency of the previous termination; and
 - 3. The conditions or factors which were the basis for the previous termination finding have not been corrected;
 - (i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect; or
 - (j) That the child has been in foster care under the responsibility of the cabinet for fifteen (15) *cumulative months out of forty-eight (48)* ~~{the most recent twenty-two (22)}~~ months preceding the filing of the petition to terminate parental rights.
- (3) In determining the best interest of the child and the existence of a ground for termination, the Circuit Court shall consider the following factors:
- (a) Mental illness as defined by KRS 202A.011(9), or an intellectual disability as defined by KRS 202B.010(9) of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;
 - (b) Acts of abuse or neglect as defined in KRS 600.020(1) toward any child in the family;
 - (c) If the child has been placed with the cabinet, whether the cabinet has, prior to the filing of the petition made reasonable efforts as defined in KRS 620.020 to reunite the child with the parents unless one or more of the circumstances enumerated in KRS 610.127 for not requiring reasonable efforts have been substantiated in a written finding by the District Court;
 - (d) The efforts and adjustments the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;
 - (e) The physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and
 - (f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.
- (4) If the child has been placed with the cabinet, the parent may present testimony concerning the reunification services offered by the cabinet and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent.
- (5) If the parent proves by a preponderance of the evidence that the child will not continue to be an abused or neglected child as defined in KRS 600.020(1) if returned to the parent the court in its discretion may determine not to terminate parental rights.
- (6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision as to each parent-respondent within thirty (30) days either:
- (a) Terminating the right of the parent; or
 - (b) Dismissing the petition and stating whether the child shall be returned to the parent or shall remain in the custody of the state.

➔Section 27. KRS 625.110 is amended to read as follows:

Any order for the involuntary termination of parental rights shall be conclusive and binding on all parties, except that an appeal may be taken from a judgment or order of the Circuit Court involuntarily terminating parental rights in accordance with the Kentucky Rules of Civil Procedure. *Only an appeal made within thirty (30) days may be considered by the court. The court shall make its final ruling within ninety (90) days after the appeal case is submitted to the appellate bench for decision.*

➔SECTION 28. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly of the Commonwealth of Kentucky hereby finds and declares that the purpose of the putative father registry established pursuant to this section is to determine the name and address of a father whose name and address have not been disclosed by the mother of the child, on or before the date the mother executes a consent to the child's adoption to an attorney or an agency that is arranging the adoption of the child, and who may have conceived a child for whom a petition for adoption has been or may be filed so that notice of the adoption may be provided to the putative father.*
- (2) *As used in this section, "putative father" means a male who may be a child's father, but who:*
 - (a) *Is not married to the child's mother on or before the date that the child is born;*
 - (b) *Has not established paternity of the child in a court or agency proceeding in this or another state before the filing of a petition for adoption of the child; or*
 - (c) *Has not completed an acknowledgment of paternity affidavit before the filing of a petition for adoption of the child.*
- (3) *The cabinet shall establish a putative father registry and promulgate administrative regulations to administer the registry in accordance with this section.*
- (4) *(a) A putative father may register with the putative father registry by providing the following information to the cabinet:*
 1. *The putative father's name, date of birth, place of birth, place of residence, and an address at which he may be served with notice of the filing of a petition for adoption;*
 2. *The mother's name, date of birth, place of birth, place of residence, and mailing address, if known; and*
 3. *Any other information described in subsection (5) of this section that is known to the putative father.**(b) A putative father who registers under this section is responsible for:*
 1. *Verifying with the cabinet the accuracy of the registration; and*
 2. *Submitting to the cabinet an amended registration each time the information supplied by the putative father changes.**(c) A putative father who has registered pursuant to this section may revoke a registration at any time.*
- (5) *The cabinet shall maintain the following information in the putative father registry:*
 - (a) *The putative father's name, date of birth, place of birth, place of residence, and an address at which he may be served with notice of the filing of a petition for adoption;*
 - (b) *The mother's name, date of birth, place of birth, place of residence, and mailing address, if known;*
 - (c) *The child's name, date of birth, and place of birth, if known;*
 - (d) *The date that the cabinet receives a putative father's registration;*
 - (e) *The name of any attorney or agency that requests the cabinet to search the registry pursuant to Section 29 of this Act and the date of the request; and*
 - (f) *Any other information that the cabinet determines is necessary to access the information in the registry.*
- (6) *If a child's mother provides the name of a potential putative father and his place of residence and mailing address, if known, to the cabinet, the cabinet shall, to the best of its ability, notify the potential putative father to inform him of his opportunity to register with the putative father registry.*

- (7) *The cabinet shall store the registry's data so that it is accessible under the following:*
- (a) *The putative father's name;*
 - (b) *The mother's name; or*
 - (c) *The child's name.*
- (8) *Subject to subsection (9) of this section, the cabinet shall furnish a certified copy of a putative father's registration form upon written request by:*
- (a) *A putative father;*
 - (b) *A mother;*
 - (c) *A child;*
 - (d) *Any party or attorney of record in a pending adoption;*
 - (e) *An attorney who represents:*
 - 1. *Prospective adoptive parents;*
 - 2. *Petitioners in an adoption;*
 - 3. *A mother;*
 - 4. *A putative father; or*
 - 5. *A child-placing agency;*
 - (f) *A licensed child-placing agency that represents:*
 - 1. *Prospective adoptive parents;*
 - 2. *Petitioners in an adoption;*
 - 3. *A mother; or*
 - 4. *A putative father; or*
 - (g) *A court that presides over a pending adoption.*
- (9) *The cabinet may release the certified copy of the registration form to a person under subsection (8)(a) to (c) of this section only if the information contained in the registration form names the requesting person.*
- (10) *A person who makes a request pursuant to this section shall state that the requesting person is entitled to receive the information under this section. The cabinet may charge a fee of twenty-five dollars (\$25) to a person who makes a request under this section. The fee established by this subsection shall not apply to a court.*
- (11) *Except as otherwise provided in this section and Section 29 of this Act, information contained within the registry is confidential.*
- (12) *The cabinet shall publish information regarding the putative father registry on its Web site.*
- ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:
- (1) *An attorney or child-placing agency that arranges a prospective adoption may at any time request that the cabinet search the putative father registry established under Section 28 of this Act to determine whether a putative father is registered in relation to a mother whose child is the subject of the adoption.*
 - (2) *An attorney or child-placing agency that arranges a prospective adoption may at any time serve the putative father of a child or cause the putative father to be served with actual notice that the mother of the child is considering an adoptive placement for the child.*
 - (3) *Whenever a petition for adoption is filed, the attorney or child-placing agency that arranges the adoption shall request that the cabinet search the putative father registry at least one (1) day after the expiration of the period specified by subsection (1)(b)2. of Section 30 of this Act.*
 - (4) *No later than five (5) days after receiving a request under subsection (1) or (3) of this section, the cabinet shall submit an affidavit to the requesting party verifying whether a putative father is registered in relation to a mother whose child is the subject of the adoption.*

- (5) *Whenever the cabinet finds that one (1) or more putative fathers are registered, the cabinet shall submit a copy of each registration form with its affidavit.*
- (6) *A court shall not grant an adoption unless the cabinet's affidavit under this section is filed with the court.*

➔Section 30. KRS 199.480 is amended to read as follows:

- (1) The following persons shall be made parties defendant in an action for leave to adopt a child:
 - (a) The child to be adopted;
 - (b) The biological living parents of a child under eighteen (18), if the child is born in lawful wedlock. If the child is born out of wedlock, its mother; and its father, if one (1) of the following requirements is met:
 - 1. He is known and voluntarily identified by the mother by affidavit;
 - 2. *He has registered with the cabinet pursuant to Section 28 of this Act as a putative father prior to the birth of the child, or if he did not have notice prior to the birth of the child, within thirty (30)*~~[Prior to the entry of a final order in a termination proceeding, he has acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within sixty (60)]~~ days after the birth of the child;
 - 3. He has caused his name to be affixed to the birth certificate of the child;
 - 4. He has commenced a judicial proceeding claiming parental right;
 - 5. He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or
 - 6. He has married the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child.

A putative father shall not be made a party defendant if none of the requirements set forth above have been met, and a biological parent shall not be made a party defendant if the parental rights of that parent have been terminated under KRS Chapter 625, or under a comparable statute of another jurisdiction;
 - (c) The child's guardian, if it has one.
 - (d) If the care, custody, and control of the child has been transferred to the cabinet, or any other individual or individuals, institution, or agency, then the cabinet, the other individual or individuals, institution, or agency shall be named a party defendant, unless the individual or individuals, or the institution or agency is also the petitioner.
- (2) Each party defendant shall be brought before the court in the same manner as provided in other civil cases except that if the child to be adopted is under fourteen (14) years of age and the cabinet, individual, institution, or agency has custody of the child, the service of process upon the child shall be had by serving a copy of the summons in the action upon the cabinet, individual, institution or agency, any provision of CR 4.04(3) to the contrary notwithstanding.
- (3) If the child's biological living parents, if the child is born in lawful wedlock, or if the child is born out of wedlock, its mother, and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, are parties defendant, no guardian ad litem need be appointed to represent the child to be adopted.

➔Section 31. KRS 199.990 is amended to read as follows:

- (1) Any person violating any of the provisions of KRS 199.380 to 199.400 shall be guilty of an offense, and upon conviction thereof, shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than twelve (12) months, or be both fined and imprisoned, in the discretion of the court.
- (2) Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473, 199.570, 199.572, and 199.590 except subsection (2), or 199.640 to 199.670, or any rule or regulation under such sections the violation of which is made unlawful shall be fined not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) or imprisoned for not more than six (6) months, or both. Each day such violation continues shall constitute a separate offense.
- (3) Any person who willfully violates any other of the provisions of KRS 199.420 to 199.670 or any rule or regulation thereunder, the violation of which is made unlawful under the terms of those sections, and for which no other penalty is prescribed in those sections or in subsection (1) of this section, or in any other applicable

statute, shall be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned for not more than thirty (30) days, or both.

- (4) Any violation of the regulations, standards, or requirements of the cabinet under the provisions of KRS 199.896 that poses an immediate threat to the health, safety, or welfare of any child served by the child-care center shall be subject to a civil penalty of no more than one thousand dollars (\$1,000) for each occurrence. Treble penalties shall be assessed for two (2) or more violations within twelve (12) months. All money collected as a result of civil penalties assessed under the provisions of KRS 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of the Early Childhood Scholarship Program created in accordance with KRS 164.518. The balance of the fund shall not lapse to the general fund at the end of each biennium.
- (5) A person who commits a violation of the regulations, standards, or requirements of the cabinet under the provisions of KRS 199.896 shall be fined not less than one thousand dollars (\$1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court.
- (6) Any person who violates any of the provisions of KRS 199.590(2) shall be guilty of a Class D felony.
- (7) ***Any person who knowingly or intentionally registers false information under subsection (4) of Section 28 of this Act shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court.***
- (8) ***Any person who knowingly or intentionally releases or requests confidential information in violation of subsection (8) or (9) of Section 28 of this Act or in violation of Section 29 of this Act shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court. It is a defense under this subsection if the cabinet releases confidential information while acting in good faith and with reasonable diligence.***

➔Section 32. KRS 406.081 is amended to read as follows:

The court, upon request of a party or on its own motion, shall order the mother, child, and alleged father to submit to genetic tests. If the mother refuses for herself or on behalf of the child to submit to the tests, the court may resolve the question of paternity against her unless the action is brought by or is being prosecuted by an agency contributing to the support of the child. ***If the alleged father is ordered to submit to genetic tests and refuses or does not submit the results of the paternity test to the court within thirty (30) days of the court order, the court shall resolve the question of paternity against him.***

➔Section 33. KRS 406.091 is amended to read as follows:

- (1) An unchallenged acknowledgment of paternity shall be ratified under KRS Chapter 213 without the requirement for judicial or administrative proceedings. If a genetic test is required, the court shall direct that inherited characteristics be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret results and to report to the court.
- (2) In a contested paternity case, the child and all other parties shall submit to genetic testing upon a request of any such party which shall be supported by a sworn statement of the party, except for good cause.
- (3) Genetic test results are admissible and shall be weighed along with other evidence of the alleged father's paternity.
- (4) Any objection to genetic testing results shall be made in writing to the court within twenty (20) days of receipt of genetic test results. If the results of genetic tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or independent laboratory at the expense of the party requesting additional testing. If no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.
- (5) Verified documentation of the chain of custody in transmitting the blood specimens is competent evidence to establish the chain of custody.
- (6) A verified expert's report shall be admitted at trial unless the expert is called by a party or the court as a witness to testify to his findings.
- (7) Except where the Cabinet for Health and Family Services administratively orders genetic testing, all costs associated with genetic testing shall be paid by the ***party who requested that the action be brought pursuant to KRS 406.021***~~[parties in proportions determined by the court]~~.

- (8) When administratively ordered, the cabinet shall pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established. The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.

➔Section 34. KRS 625.065 is amended to read as follows:

- (1) The putative father of a child shall be made a party and brought before the circuit court in the same manner as any other party to an involuntary termination action if one (1) of the following conditions exists:
- (a) He is known and voluntarily identified by the mother by affidavit;
 - (b) ***He has registered with the cabinet pursuant to Section 28 of this Act as a putative father prior to the birth of the child, or if he did not have notice prior to the birth of the child, within thirty (30)***~~(Prior to the entry of a final order in a termination proceeding, he shall have acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within sixty (60) days after the birth of the child;~~
 - (c) He has caused his name to be affixed to the birth certificate of the child;
 - (d) He has commenced a judicial proceeding claiming parental right;
 - (e) ***He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or***~~(He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or]~~
 - (f) He has married the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child.
- (2) Any person to whom none of the above conditions apply shall be deemed to have no parental rights to the child in question.

➔Section 35. KRS 199.502 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 199.500(1), an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as part of the adoption proceeding that any of the following conditions exist with respect to the child:
- (a) That the parent has abandoned the child for a period of not less than ninety (90) days;
 - (b) That the parent had inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;
 - (c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;
 - (d) That the parent has been convicted of a felony that involved the infliction of serious physical injury to a child named in the present adoption proceeding;
 - (e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child, and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;
 - (f) That the parent has caused or allowed the child to be sexually abused or exploited;
 - (g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child;
 - (h) That:
 1. The parent's parental rights to another child have been involuntarily terminated;
 2. The child named in the present adoption proceeding was born subsequent to or during the pendency of the previous termination; and

3. The condition or factor which was the basis for the previous termination finding has not been corrected;~~{or}~~
 - (i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect; *or*
 - (j) *That the parent is a putative father, as defined in Section 28 of this Act, who fails to register as the minor's putative father with the putative father registry established under Section 28 of this Act or the court finds, after proper service of notice and hearing, that:*
 1. *The putative father is not the father of the minor;*
 2. *The putative father has willfully abandoned or willfully failed to care for and support the minor; or*
 3. *The putative father has willfully abandoned the mother of the minor during her pregnancy and up to the time of her surrender of the minor, or the minor's placement in the home of the petitioner, whichever occurs first.*
- (2) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision either:
 - (a) Granting the adoption without the biological parent's consent; or
 - (b) Dismissing the adoption petition, and stating whether the child shall be returned to the biological parent or the child's custody granted to the state, another agency, or the petitioner.
- (3) *Biological living parents have the right to legal representation in an adoption wherein he or she does not consent. The Circuit Court shall determine if a biological living parent is indigent and, therefore, entitled to counsel pursuant KRS Chapter 31. If the Circuit Court so finds, the Circuit Court shall inform the indigent parent; and, upon request, if it appears reasonably necessary in the interest of justice, the Circuit Court shall appoint an attorney to represent the biological living parent pursuant to KRS Chapter 31 to be provided or paid for by:*
 - (a) *The petitioner a fee to be set by the court and not to exceed five hundred dollars (\$500); or*
 - (b) *The Finance and Administration Cabinet if the petitioner is a blood relative or fictive kin as established in subsection (4)(a) of Section 4 of this Act a fee to be set by the court and not to exceed five hundred dollars (\$500).*

➔Section 36. KRS 199.473 is amended to read as follows:

- (1) All persons other than a child-placing agency or institution, the department, or persons excepted by KRS 199.470(4)~~{or (5)}~~ who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child.
- (2) Prior to the approval of an application to place or receive a child, the fee required pursuant to subsection (13) of this section shall be paid and a home study shall be completed. The purpose of the home study shall be to review the background of the applicant and determine the suitability of the applicant to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made.
- (3)
 - (a) The home study shall be made in accordance with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.
 - (b) The cabinet shall conduct the home study for an applicant whose total gross income is equal to or less than two hundred fifty percent (250%) of the federal poverty level guidelines issued each year by the federal government, unless the applicant submits a written request for the home study to be conducted by a licensed child-placing agency or institution. Upon request, the cabinet shall make information available to an applicant who does not meet the requirements of this paragraph to assist the applicant in obtaining a home study from a licensed child-placing agency approved to provide adoption services.
 - (c) A licensed child-placing agency approved to provide adoption services shall conduct the home study for an applicant whose gross total income is more than two hundred fifty percent (250%) of the federal poverty level guidelines issued each year by the federal government.
 - (d) Calculation of family size for this subsection shall include each child requested to be adopted.

- (e) The portion of the home study pertaining to the home and family background shall be valid for one (1) year following the date of its completion by an adoption worker.
- (4) The adoption worker making the home study shall make a finding in writing recommending either that the application be granted or that the application be denied. The recommendation of the adoption worker shall then be reviewed by the secretary.
- (5) Based on the report and recommendation of the adoption worker making the home study, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching a decision, the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological, and psychiatric standpoint.
- (6) If the application is refused, the secretary shall in general terms furnish in writing the reasons for his or her refusal.
- (7) Any person who seeks temporary custody of a child prior to the secretary's ruling on an application for adoption shall file a petition seeking temporary custody, with a notice of intent to adopt, with the Circuit Court that will have jurisdiction of the adoption proceedings. The clerk of the court shall send a notice of the filing of the petition to the cabinet. A hearing on the petition shall occur no later than seventy-two (72) hours after the filing of the petition, excluding weekends and holidays. Proceedings under this subsection shall be incorporated into the court's adoption file. If the adoption is not finalized within six (6) months of the filing of the petition and notice of intent, the court shall conduct a hearing on the status and custody of the child.
- (8) Upon a finding by the Circuit Court that the child should be placed prior to the secretary's ruling on the application, the Circuit Court may grant the applicant temporary custody of the child pending the decision of the secretary. Temporary custody shall not be granted to an applicant unless a background check, including but not limited to a criminal records check by the Justice and Public Safety Cabinet or the Administrative Office of the Courts and a background check of child abuse and neglect records maintained by the cabinet, has been submitted to and reviewed by the court. The background check required for temporary custody shall be part of the home study required under subsection (2) of this section. If the application is denied by the secretary, the temporary custody order shall be set aside and, upon motion of the cabinet or of the child's parent or parents, the Circuit Court may order the child returned to the biological parent or parents or the child's custody may be awarded to the cabinet, another licensed child-placing agency, or other individuals deemed appropriate by the court. This section shall not be deemed to permit the completion of any adoption proceeding without the approval of the secretary and compliance with KRS 615.030, if required.
- (9) In any case where the cabinet refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with that person or those persons for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the biological or proposed adopting parent or parents shall appeal to the Circuit Court of the county in which the adoption is proposed. No placement shall be disapproved on the basis of the religious, ethnic, racial, or interfaith background of the adoptive applicant, if the placement is made with the consent of the parent.
- (10) The cabinet may refuse to approve the placement of a child for adoption if the child's custodial parent is unwilling for the child to be placed for adoption with the proposed adoptive family. The cabinet may approve or deny the placement, in spite of the fact that the custodial parent or parents are unwilling to be interviewed by the cabinet or other approving entity, or if, after diligent efforts have been made, the adoption worker is unable to locate or interview the custodial parent or parents. The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in a manner that constitutes an abuse of discretion.
- (11) If a child who does not fall within the exception provided for in KRS 199.470(4)~~[- or (5)]~~ is placed or received in a home without the court's review of the background check required under this section or the permission of the secretary for health and family services, or if permission to receive a child has been denied, a representative of the cabinet shall notify in writing or may petition the juvenile session of District Court of the county in which the child is found setting out the facts concerning the child. When the petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected, or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants who are to receive the child unless permission to do so is granted by the secretary or the action is ordered by a Kentucky court of competent jurisdiction.

- (12) When either the custodial parent or parents of the child to be placed or the persons wishing to receive the child reside out-of-state, the requirement of KRS 615.030, Interstate Compact on the Placement of Children, shall be met before the cabinet gives approval for the child's placement.
- (13) The secretary of the Cabinet for Health and Family Services shall be paid a nonrefundable fee of two hundred dollars (\$200) upon the filing of the written application for permission to place or receive a child. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special-needs child as authorized in KRS 199.555.
- (14) Nothing in this statute shall be construed to limit the authority of the cabinet or a child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of District Court or the Circuit Court, prior to the filing of an application to place or receive.

➔Section 37. KRS 199.490 is amended to read as follows:

- (1) The petition shall allege:
 - (a) The name, date, place of birth, place of residence, and mailing address of each petitioner, and, if married, the date and place of their marriage;
 - (b) The name, date, place of birth, place of residence, and mailing address, if known, of the child sought to be adopted;
 - (c) Relationship, if any, of the child to each petitioner;
 - (d) Full name by which the child shall be known after adoption;
 - (e) A full description of the property, if any, of the child so far as it is known to the petitioner;
 - (f) The names of the parents of the child and the address of each living parent, if known. The name of the biological father of a child born out of wedlock shall not be given unless paternity is established in a legal action, or unless an affidavit is filed stating that the affiant is the father of the child. If certified copies of orders terminating parental rights are filed as provided in subsection (2) of this section, the name of any parent whose rights have been terminated shall not be given;
 - (g) The name and address of the child's guardian, if any, or of the cabinet, institution, or agency having legal custody of the child;
 - (h) Any further facts necessary for the location of the person or persons whose consent to the adoption is required, or whom KRS 199.480 requires to be made a party to or notified of the proceeding; and
 - (i) If any fact required by this subsection to be alleged is unknown to the petitioners, the lack of knowledge shall be alleged.
- (2) There shall be filed with the petition certified copies of any orders terminating parental rights. Any consent to adoption shall be filed prior to the entry of the adoption judgment.
- (3) If the petitioner was not excepted by KRS 199.470(4)~~[- or (5)]~~, a copy of the written approval of the secretary of the Cabinet for Health and Family Services or the secretary's designee shall be filed with the petition.

➔Section 38. KRS 625.040 is amended to read as follows:

- (1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of..., a child." The petition may be filed by a parent or counsel when the appearance-waiver and consent-to-adopt forms are signed by the parent, counsel, and cabinet representative under the conditions described in KRS 625.041(3) and (4).
- (2) The petition for the voluntary termination of parental rights shall be filed in the Circuit Court of the judicial circuit where the petitioner or child resides or in the Circuit Court in the county in which juvenile court actions, if any, concerning the child have commenced, and shall be verified and contain the following:
 - (a) Name and place of residence of each petitioner;
 - (b) Name, sex, date of birth, and place of residence of the child;
 - (c) Name and relationship of each petitioner to the child;
 - (d) A concise statement of the factual basis for the termination of parental rights;

- (e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and
 - (f) A statement that the person, cabinet, or authorized agency to whom custody is to be given has facilities available, is willing to receive the custody of the child, and the person, if not excepted by KRS 199.470(4)~~[-or-(5)]~~, has applied for the written permission of the secretary or the secretary's designee for the child's placement. This provision shall not affect the right of a court to grant temporary custody under KRS 199.473.
- (3) No petition may be filed under this chapter prior to three (3) days after the birth of the child.
 - (4) ***Any petition filed pursuant to this section shall be fully adjudicated and a final judgment shall be entered by the court within six (6) months of the filing of the petition.***

➔Section 39. KRS 625.042 is amended to read as follows:

- (1) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the Circuit Court shall set a date for a hearing which shall not be more than thirty (30) calendar days after the petition is filed. In any case in which the child's permanent custody is proposed to be transferred to an individual not excepted by KRS 199.470(4)~~[-or-(5)]~~, a final order of termination shall be entered only if the proposed custodian has received the written approval of the secretary or the secretary's designee for the child's placement as required by KRS 199.473. ***The secretary or the secretary's designee shall provide written approval or disapproval, if required by this subsection, within thirty (30) days after the request is made.***
- (2) The Circuit Court shall require notice to be served upon the local representative of the cabinet in any case in which a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual unless the placement has been approved by the cabinet. It shall not be necessary to serve notice upon the cabinet if custody of the child is to be placed with the cabinet or with a child-placing agency.
- (3) Proceedings under this chapter shall be completed as soon as practicable ***but shall not exceed six (6) months.*** All hearings shall be held before the Circuit Court privately for the purpose of determining the facts.
- (4) An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years.
- (5) The best interests of the child shall be considered paramount, including but not limited to matters relating to child support.
- (6) At the time of the hearing, the Circuit Court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.

➔Section 40. KRS 625.043 is amended to read as follows:

- (1) If the Circuit Court determines that parental rights are to be voluntarily terminated in accordance with the provisions of this chapter, it shall make an order terminating all parental rights and obligations of the parent and releasing the child from all legal obligations to the parent and vesting care and custody of the child in the person, agency, or cabinet the court believes is best qualified to receive custody.
- (2) Upon consent by the Cabinet for Health and Family Services, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is not excepted by KRS 199.470(4)~~[-or-(5)]~~, a grant of permanent custody shall be made only if the proposed custodian has received the written approval of the secretary or the secretary's designee for the child's placement.

➔Section 41. KRS 625.050 is amended to read as follows:

- (1) A petition for involuntary termination of parental rights shall be entitled "In the interest of ..., a child."
- (2) The petition shall be filed in the Circuit Court for any of the following counties:
 - (a) The county in which either parent resides or may be found;
 - (b) The county in which juvenile court actions, if any, concerning the child have commenced; or
 - (c) The county in which the child involved resides or is present.

- (3) Proceedings for involuntary termination of parental rights may be initiated upon petition by the cabinet, any child-placing agency licensed by the cabinet, any county or Commonwealth's attorney or parent.
- (4) The petition for involuntary termination of parental rights shall be verified and contain the following:
 - (a) Name and mailing address of each petitioner;
 - (b) Name, sex, date of birth and place of residence of the child;
 - (c) Name and address of the living parents of the child;
 - (d) Name, date of death and cause of death, if known, of any deceased parent;
 - (e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;
 - (f) Name and address of the person, cabinet or agency having custody of the child;
 - (g) Name and identity of the person, cabinet or authorized agency to whom custody is sought to be transferred;
 - (h) Statement that the person, cabinet or agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;
 - (i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;
 - (j) Information as to the legal status of the child and the court so adjudicating; and
 - (k) A concise statement of the factual basis for the termination of parental rights.
- (5) No petition may be filed under this section prior to five (5) days after the birth of the child.
- (6) No petition may be filed to terminate the parental rights of a woman solely because of her use of a nonprescribed controlled substance during pregnancy if she enrolls in and maintains substantial compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care as recommended by her health care practitioner throughout the remaining term of her pregnancy. Upon certified completion of the treatment or recovery program, or six (6) months after giving birth during which time substantial compliance with a substance abuse treatment or recovery program has occurred, whichever is earlier, any records maintained by a court or by the cabinet relating to a positive test for a nonprescribed controlled substance shall be sealed by the court and may not be used in any future criminal prosecution or future petition to terminate the woman's parental rights.
- (7) ***Any petition filed pursuant to this section shall be fully adjudicated and a final judgment shall be entered by the court within six (6) months of the service of the petition on the parents.***

➔Section 42. KRS 199.500 is amended to read as follows:

- (1) An adoption shall not be granted without the voluntary and informed consent, as defined in KRS 199.011, of the living parent or parents of a child born in lawful wedlock or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that the consent of the living parent or parents shall not be required if:
 - (a) The parent or parents have been adjudged mentally disabled and the judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;
 - (b) The parental rights of the parents have been terminated under KRS Chapter 625;
 - (c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS Chapter 625 and consent has been given by the parent having custody and control of the child; or
 - (d) The biological parent has not established parental rights as required by KRS 625.065.
- (2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for the parent shall be appointed.
- (3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court. The court in its discretion may waive this requirement.

- (4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of KRS 625.090 exist with respect to the child.
- (5) An adoption shall not be granted or a consent for adoption be held valid if the consent for adoption is given prior to seventy-two (72) hours after the birth of the child. A voluntary and informed consent may be taken at seventy-two (72) hours after the birth of the child and shall become final and irrevocable **twenty (20) days after it is signed**~~[under paragraphs (a) and (b) of this subsection.~~
 - (a) ~~If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the later of the placement approval or the execution of the voluntary and informed consent.~~
 - (b) ~~If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the execution of the voluntary and informed consent.~~

➔SECTION 43. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

If the cabinet determines that return home is not recommended for a child, the parent or person exercising custodial control of the child may appeal the determination of the cabinet within thirty (30) days of the cabinet's determination. The cabinet shall review the appeal and make its final determination within three (3) months after the appeal is filed.

➔Section 44. KRS 620.146 is amended to read as follows:

- (1) If, as a result of dependency, neglect, or abuse, custody of a child is granted to the cabinet through an emergency, temporary, or permanent court order, the cabinet shall notify the principal **or any**~~[-assistant principal, or guidance counselor]~~ of the school in which the child is enrolled, **and the school district's director of pupil personnel**, of the names of persons authorized to contact the child at school, in accordance with school visitation or communication policy, or remove the child from school grounds.
- (2) The notification required by this section shall be provided **by the Cabinet for Health and Family Services** to the school:
 - (a) **By written notice via electronic mail or facsimile**~~[Verbally and documented in writing by the principal, assistant principal, or guidance counselor]~~ on the day that a court order is entered and again on any day that a change is made with regard to persons authorized to contact or remove the child from school. The verbal notification shall occur on the next school day immediately following the day a court order is entered or a change is made if the court order or change occurs after the end of the current school day; and
 - (b) **By electronic mail, facsimile, or hand delivery of a copy of the court order**~~[written document]~~ within ten (10) calendar days following **the Cabinet for Health and Family Services' receipt of the court order** of a change of custody or change in contact or removal authority.
- (3) The cabinet's mandate to provide the information required by this section shall cease when the court order under which the cabinet acts is rescinded or otherwise expires.

➔Section 45. KRS 620.360 is amended to read as follows:

- (1) Persons who provide foster care services to children who have been committed to the custody of the state shall be considered a primary partner and member of a professional team caring for foster children. Foster parents ~~[who contract directly with the cabinet]~~ shall have the following rights:
 - (a) To be treated with respect, consideration, and dignity;
 - (b) To fully understand the role of the cabinet and the role of other members of the child's professional team;
 - (c) To receive information and training about foster parents' rights, responsibilities, and access to local and statewide support groups, including but not limited to the Kentucky Foster/Adoptive Care Association, the Kentucky Foster and Adoptive Parent Network, and Adoption Support of Kentucky;
 - (d) To receive information and training to improve skills in the daily care and in meeting the special needs of foster children;
 - (e) To receive timely and adequate financial reimbursement for knowledgeable and quality care of a child in foster care within budgetary limitations;

- (f) To maintain the foster family's own routines and values while respecting the rights and confidentiality of each foster child placed in their home;
 - (g) To receive a period of respite from providing foster care, pursuant to cabinet policies;
 - (h) To receive, upon an open records request, a copy of all information contained in the cabinet's records about the family's foster home and the foster care services provided by the family consistent with KRS 605.160;
 - (i) To access cabinet support and assistance as necessary twenty-four (24) hours per day, seven (7) days per week;
 - (j) To receive, prior to a child being placed in the foster home pursuant to KRS 605.090, information relating to the child's behavior, family background, or health history that may jeopardize the health or safety of any member of the foster family's household, including other foster children, and similar information that may affect the manner in which foster care services are provided, consistent with KRS 605.160. In an emergency situation, the cabinet shall provide information as soon as it is available;
 - (k) To refuse placement of a child within the foster home and to request, with reasonable notice to the cabinet, the removal of a child from the foster home without fear of reprisal;
 - (l) To communicate, with an appropriate release of information consistent with KRS 605.160, with other professionals who work directly with the foster child, including but not limited to teachers, therapists, and health care practitioners and to notify the cabinet within twenty-four (24) hours of the communication;
 - (m) To assist the cabinet in the development of the child's plan of care;
 - (n) To receive an explanatory notice from the cabinet, consistent with KRS 620.130 and when it is in the best interest of the child, when a foster child's case plan has changed and, except in an immediate response to a child protective services investigation involving the foster home, an explanatory notice of termination or change in placement affecting the foster home within fourteen (14) days of the change or termination in placement;
 - (o) To have priority consideration for placement if a child who has previously been placed in the foster home reenters foster care, consistent with KRS 605.130 and 620.130 and to the extent it is in the best interest of the child;
 - (p) To have priority consideration for adoption if a foster child who has been placed in the foster home for a period of at least twelve (12) consecutive months becomes eligible for adoption consistent with KRS 605.130 and 620.130 and to the extent it is in the best interest of the child;~~and~~
 - (q) To maintain contact with the foster child after the child leaves the foster home, unless the child, a biological parent, the cabinet when the cabinet retains custody of the child, or other foster or adoptive parent refuses such contact; **and**
 - (r) ***To receive notice of, have a right to attend, and have a right to be heard in, either verbally or in writing, any cabinet or court proceeding held with respect to the child. This paragraph shall not be construed to require that a foster parent caring for the child be made a party to a proceeding solely on the basis of the notice and rights to attend and be heard.***
- (2) The responsibilities of foster parents ~~that contract directly with the cabinet~~ shall include but not be limited to the following:
- (a) To maintain an orderly and clean home;
 - (b) To ensure that the child has adequate resources for personal hygiene and clothing;
 - (c) To provide recreational and spiritual opportunities for the child, in accordance with cabinet policies;
 - (d) To attend all school and case planning meetings involving a foster child placed in their home whenever possible, subject to KRS 620.130 and the confidentiality requirements of 42 U.S.C. sec. 671;
 - (e) To abide by cabinet policies relating to discipline of a foster child; and
 - (f) To support the involvement of a foster child's biological family whenever possible and in accordance with cabinet policies.

- (3) The cabinet shall provide specific training on investigations of alleged child abuse or neglect in a foster home to a person appointed by the Kentucky Foster/Adoptive Care Association. The training shall include the rights of a foster parent during an investigation. Training shall be consistent with 42 U.S.C. sec. 5106(a).
- (4) Nothing in this section shall be construed to establish monetary liability of or cause of action against the cabinet.

➔SECTION 46. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context otherwise requires;*
 - (a) *"Cabinet" means the Cabinet for Health and Family Services; and*
 - (b) *"Secretary" means the secretary of the Cabinet for Health and Family Services.*
- (2) *The secretary shall designate a study group to make recommendations regarding the feasibility and implementation of the privatization of all foster care services in the Commonwealth.*
- (3) *The study group shall be composed of the following members:*
 - (a) *The secretary;*
 - (b) *The commissioner for the Department for Community Based Services;*
 - (c) *The director of the Administrative Office of the Courts, or designee;*
 - (d) *The executive director of the Governor's Office of Early Childhood, or designee;*
 - (e) *One (1) adult who was a former foster child in the Commonwealth;*
 - (f) *One (1) adult who is a current or former foster parent in the Commonwealth;*
 - (g) *Two (2) employees of a licensed child-placing agency;*
 - (h) *Two (2) employees of a licensed child-caring facility; and*
 - (i) *Any personnel within the Department for Community Based Services that the secretary deems necessary.*
- (4) *In its deliberations, the study group shall include but not be limited to analysis of improved timeliness and likelihood of permanency such as reunification, adoption, or guardianship; fewer moves for children in foster care; reduced instances of reentry into care; and financial implications.*
- (5) *The study group shall report its recommendations by July 1, 2019, to the Governor, the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and Family Services, and the Child Welfare Oversight and Advisory Committee established in Section 1 of this Act. The study group shall cease to operate after the delivery of the recommendations required by this subsection.*

➔Section 47. KRS 620.100 is amended to read as follows:

- (1) If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:
 - (a) The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. Counsel shall document participation in training on the role of counsel that includes training in early childhood, child, and adolescent development. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);
 - (b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision if the parent is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The parent's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);

- (c) *The court shall appoint separate counsel for a person claiming to be a de facto custodian, as defined in KRS 403.270, if the person is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The person's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);*
 - (d) The court may, in the interest of justice, appoint separate counsel for a nonparent who exercises custodial control or supervision of the child, if the person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. Counsel for the person shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250); and
 - ~~(e)(4)~~ The court may, in the interest of justice, appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550. The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet, of the order appointing the court-appointed special advocate volunteer.
 - (2) If the court determines that further proceedings are required, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal.
 - (3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect, and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.
 - (4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.
 - (5) Foster parents, preadoptive parents, or relatives providing care for the child shall receive notice of, and shall have a right to be heard in, any proceeding held with respect to the child. This subsection shall not be construed to require that a foster parent, preadoptive parent, or relative caring for the child be made a party to a proceeding solely on the basis of the notice and right to be heard.
- ➔Section 48. KRS 21A.190 is amended to read as follows:
- (1) The General Assembly respectfully requests that the Supreme Court of Kentucky institute a pilot project to study the feasibility and desirability of the opening or limited opening of court proceedings, except for proceedings related to sexual abuse, to the public which are related to:
 - (a) Dependency, neglect, and abuse proceedings under KRS Chapter 620; and
 - (b) Termination of parental rights proceedings under KRS Chapter 625.
 - (2)
 - (a) The pilot project may be established in a minimum of three (3) diverse judicial districts or judicial circuits or a division or divisions thereof chosen by the Chief Justice.
 - (b) A pilot project authorized by this subsection shall not be established in a judicial district or judicial circuit or a division thereof when objected to by the applicable judge or county attorney.
 - (3) The pilot project shall:
 - (a) Require participating courts to be presumptively open;
 - (b) Last for four (4) years, unless extended or limited by the General Assembly; and
 - (c) Be monitored and evaluated by the Administrative Office of the Courts to determine:
 - 1. Whether there are adverse effects resulting from the opening of certain proceedings or release of records;
 - 2. Whether the pilot project demonstrates a benefit to the litigants;
 - 3. Whether the pilot project demonstrates a benefit to the public;

4. Whether the pilot project supports a determination that such proceedings should be presumptively open;
5. Whether the pilot project supports a determination that such proceedings should be closed;
6. How open proceedings under the pilot project impact the child;
7. The parameters and limits of the program;
8. Suggestions for the operation and improvement of the program;
9. Rules changes which may be needed if the program is to be made permanent and expanded to all courts; and
10. Recommendations for statutory changes which may be needed if the program is to be made permanent and expanded to all courts.

(4) The Administrative Office of the Courts:

- (a) Shall provide an annual report to the Legislative Research Commission, the ***Child Welfare Oversight and Advisory Committee established in Section 1 of this Act***~~[Interim Joint Committee on Health and Welfare]~~, and the Interim Joint Committee on Judiciary by September 1 of each year the program is in operation with statistics, findings, and recommendations; and
- (b) May make periodic progress reports and statistical reports and provide suggestions to the Interim Joint Committee on Health and Welfare and to the Interim Joint Committee on Judiciary when determined necessary by the Chief Justice.

➔Section 49. KRS 157.065 is amended to read as follows:

- (1) Any school that does not offer a school breakfast program shall submit an annual report no later than September 15 to the Kentucky Board of Education indicating the reasons for not offering the program. The report shall include the number of children enrolled at the school and the number of children who are eligible for free or reduced priced meals under the federal program.
- (2) The state board shall inform the school of the value of the school breakfast program, its favorable effects on student attendance and performance, and the availability of funds to implement the program.
- (3) The commissioner of education shall submit an annual report no later than December 1 to the Interim Joint Committee on Education and the ***Child Welfare Oversight and Advisory Committee established in Section 1 of this Act***~~[Interim Joint Committee on Health and Welfare]~~ regarding the status of the school breakfast program including, but not limited to, information describing the schools that do not offer the program, the reasons given by the schools for not offering the program, the number of children enrolled in each school, the number of children in each school who are eligible for free or reduced priced meals under the federal program, and the action taken by the state board to encourage schools to implement the program.

➔Section 50. KRS 194A.146 is amended to read as follows:

- (1) There is hereby created the "Statewide Strategic Planning Committee for Children in Placement" which is administratively attached to the Department for Community Based Services. The committee shall be composed of the following:
 - (a) Members who shall serve by virtue of their positions: the secretary of the Cabinet for Health and Family Services or the secretary's designee, the commissioner of the Department for Public Health, the commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, the commissioner for the Department for Medicaid Services, the commissioner of the Department for Community Based Services, the commissioner of the Department of Juvenile Justice, the commissioner of the Department of Education, the executive director of the Administrative Office of the Courts, the Senate co-chair of the Interim Joint Committee on Health and Welfare of the General Assembly, the House co-chair of the Interim Joint Committee on Health and Welfare of the General Assembly, or their designees; and
 - (b) One (1) foster parent selected by the statewide organization for foster parents, one (1) District Judge selected by the Chief Justice of the Kentucky Supreme Court, one (1) parent of a child in placement at the time of appointment to be selected by the secretary of the Cabinet for Health and Family Services, one (1) youth in placement at the time of the appointment to be selected by the secretary of the Cabinet for Health and Family Services, one (1) private child care provider selected by the statewide

organization for private child care providers, and one (1) private child-placing provider selected by the secretary of the Cabinet for Health and Family Services. These members shall serve a term of two (2) years, and may be reappointed.

- (2) The Statewide Strategic Planning Committee for Children in Placement shall, by July 1, 2013, develop a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. The plan shall be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislative Research Commission on or before July 1, 2013, and each July 1 thereafter.
- (3) The strategic plan shall, at a minimum, include:
 - (a) A mission statement;
 - (b) Measurable goals;
 - (c) Principles;
 - (d) Strategies and objectives; and
 - (e) Benchmarks.
- (4) The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. Strategic plan updates shall include data and statistical information comparing plan benchmarks to actual services and care provided.
- (5) The Statewide Strategic Planning Committee for Children in Placement shall, in consultation with the commissioner and the statewide placement coordinator as provided for in KRS 199.801, establish a statewide facilities and services plan that identifies the location of existing facilities and services for children in placement, identifies unmet needs, and develops strategies to meet the needs. The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. The plan shall be used to guide, direct, and, if necessary, restrict the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of placement alternatives.
- (6) The Statewide Strategic Planning Committee for Children in Placement may, through the promulgation of administrative regulations, establish a process that results in the review and approval or denial of the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of any facilities and services for children in placement in accordance with the statewide facilities and services plan. Any process established shall include adequate due process rights for individuals and entities seeking to develop new services, construct new facilities, or expand existing facilities, and shall require the involvement of local communities and other resource providers in those communities.
- (7) As a part of the statewide strategic plan, and in consultation with the Commonwealth Office of Technology, the Statewide Strategic Planning Committee for Children in Placement shall plan for the development or integration of information systems that will allow information to be shared across agencies and entities, so that relevant data will follow a child through the system regardless of the entity or agency that is responsible for the child. The data produced shall be used to establish and monitor the benchmarks required by subsection (3) of this section. The data system shall, at a minimum, produce the following information on a monthly basis:
 - (a) Number of placements per child;
 - (b) Reasons for placement disruptions;
 - (c) Length of time between removal and establishment of permanency;
 - (d) Reabuse or reoffense rates;
 - (e) Fatality rates;
 - (f) Injury and hospitalization rates;
 - (g) Health care provision rates;
 - (h) Educational achievement rates;
 - (i) Multiple placement rates;
 - (j) Sibling placement rates;
 - (k) Ethnicity matching rates;

- (l) Family maintenance and preservation rate; and
 - (m) Adoption disruption rates.
- (8) The Statewide Strategic Planning Committee for Children in Placement shall ensure that a study is conducted to evaluate the extent to which changes in the child welfare delivery model, to include contracting for a continuum of care and shared decision-making with private child-caring and child placing agencies, would enhance the effectiveness and outcomes for children served in the foster care system. The Statewide Strategic Planning Committee shall develop a report of its findings and recommendations which shall be included in the annual report due on or before July 1, 2013.
- (9) The Statewide Strategic Planning Committee for Children in Placement shall publish an annual report no later than December 1 of each year that includes, but is not limited to, the information outlined in subsection (7) of this section. The annual report shall be filed with the Governor and the ***Child Welfare Oversight and Advisory Committee established in Section 1 of this Act***~~[Legislative Research Commission]~~.

➔Section 51. KRS 194A.365 is amended to read as follows:

The cabinet shall make an annual report to the Governor, the ***Child Welfare Oversight and Advisory Committee established in Section 1 of this Act***~~[General Assembly]~~, and the Chief Justice. The report shall be tendered not later than December 1 of each year and shall include information for the previous fiscal year. The report shall include, but not be limited to, the following information:

- (1) The number of children under an order of dependent, status, public, or voluntary commitment to the cabinet, according to: permanency planning goals, current placement, average number of placements, type of commitment, and the average length of time children remain committed to the cabinet;
- (2) The number of children in the custody of the cabinet in the following types of residential placements, the average length of stay in these placements, and the average number of placements experienced by these children: family foster homes, private child care facilities, and placement with biological parent or person exercising custodial control or supervision;
- (3) The number of children in the custody of the cabinet eligible for adoption, the number placed in an adoptive home, and the number ineligible for adoption and the reasons therefor;
- (4) The cost in federal and state general funds to care for the children defined in subsections (1) and (2) of this section, including the average cost per child for each type of placement, direct social worker services, operating expenses, training, and administrative costs; and
- (5) Any other matters relating to the care of foster children that the cabinet deems appropriate and that may promote further understanding of the impediments to providing permanent homes for foster children.

➔Section 52. KRS 199.8943 is amended to read as follows:

- (1) As used in this section:
 - (a) "Federally funded time-limited employee" has the same meaning as in KRS 18A.005;
 - (b) "Primary school program" has the same meaning as in KRS 158.031(1); and
 - (c) "Public-funded" means a program which receives local, state, or federal funding.
- (2) The Early Childhood Advisory Council shall, in consultation with early care and education providers, the Cabinet for Health and Family Services, and others, including but not limited to child-care resource and referral agencies and family resource centers, Head Start agencies, and the Kentucky Department of Education, develop a quality-based graduated early care and education program rating system for public-funded licensed child-care and certified family child-care homes, public-funded preschool, and Head Start, based on but not limited to:
 - (a) Classroom and instructional quality;
 - (b) Administrative and leadership practices;
 - (c) Staff qualifications and professional development; and
 - (d) Family and community engagement.
- (3) The Cabinet for Health and Family Services shall, in consultation with the Early Childhood Advisory Council, promulgate administrative regulations in accordance with KRS Chapter 13A to implement:

- (a) The quality-based graduated early childhood rating system for public-funded child-care and certified family child-care homes, public-funded preschool, and Head Start developed under subsection (2) of this section;
 - (b) Agency time frames of reviews for rating;
 - (c) An appellate process under KRS Chapter 13B; and
 - (d) The ability of providers to request reevaluation for rating.
- (4) The quality-based early childhood rating system shall not be used for enforcement of compliance or in any punitive manner.
- (5) The Early Childhood Advisory Council, in consultation with the Kentucky Center for Education and Workforce Statistics, shall report by October 1 of each year to the Interim Joint Committee on Education and the ***Child Welfare Oversight and Advisory Committee established in Section 1 of this Act***~~{Interim Joint Committee on Health and Welfare}~~ on the implementation of the quality-based graduated early childhood rating system. The report shall include the following quantitative performance measures as data becomes available:
- (a) Program participation in the rating system;
 - (b) Ratings of programs by program type;
 - (c) Changes in student school-readiness measures;
 - (d) Longitudinal student cohort performance data tracked through student completion of the primary school program; and
 - (e) Long-term viability recommendations for sustainability at the end of the Race to the Top-Early Learning Challenge grant.
- (6) By November 1, 2017, the Early Childhood Advisory Council and the Cabinet for Health and Family Services shall report to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare on recommendations and plans for sustaining program quality after the depletion of federal Race to the Top-Early Learning Challenge grant funds.
- (7) Any federally funded time-limited employee personnel positions created as a result of the federal Race to the Top-Early Learning Challenge grant shall be eliminated upon depletion of the grant funds.

➔Section 53. KRS 199.8983 is amended to read as follows:

- (1) There is hereby created the Kentucky Child Care Advisory Council to be composed of eighteen (18) members. The members appointed by the Governor shall serve a term of three (3) years. The appointed members of the council shall be geographically and culturally representative of the population of the Commonwealth. For administrative purposes, the council shall be attached to the department. The members shall be as follows:
- (a) The commissioner of the department, or designee;
 - (b) Four (4) members appointed by the Governor representing child-care center providers licensed pursuant to this chapter;
 - (c) Two (2) members appointed by the Governor representing family child-care home providers licensed pursuant to this chapter;
 - (d) Three (3) members appointed by the Governor who are parents, de facto custodians, guardians, or legal custodians of children receiving services from child-care centers or family child-care homes licensed pursuant to this chapter;
 - (e) Three (3) members appointed by the Governor from the private sector who are knowledgeable about education, health, and development of children;
 - (f) The director of the Division of Child Care within the department, or designee, as a nonvoting ex officio member;
 - (g) The commissioner of education, Education and Workforce Development Cabinet, or designee, as a nonvoting ex officio member;
 - (h) The executive director of the Governor's Office of Early Childhood, or designee, as a nonvoting ex officio member;

- (i) The commissioner of the Department for Public Health within the cabinet, or designee, as a nonvoting ex officio member; and
- (j) The state fire marshal, Public Protection Cabinet, or designee, as a nonvoting ex officio member;
- (2) The council shall have two (2) co-chairpersons. One (1) co-chairperson shall be the commissioner of the department, or designee, and one (1) co-chairperson shall be elected by the voting members of the council.
- (3) Members shall serve until a successor has been appointed. If a vacancy on the council occurs, the Governor shall appoint a replacement for the remainder of the unexpired term.
- (4) Members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses in accordance with state travel expenses and reimbursement administrative regulations.
- (5) The council shall meet at least quarterly and at other times upon call of the co-chairpersons.
- (6) The council shall advise the cabinet on matters affecting the operations, funding, and licensing of child-care centers and family child-care homes. The council shall provide input and recommendations for ways to improve quality, access, and outcomes.
- (7) The council shall make an annual report by December 1 that provides summaries and recommendations to address the availability, affordability, accessibility, and quality of child care in the Commonwealth. A copy of the annual report shall be provided to the secretary, the Governor, the Legislative Research Commission, and the *Child Welfare Oversight and Advisory Committee established in Section 1 of this Act* ~~Interim Joint Committee on Health and Welfare~~.

➔Section 54. KRS 211.684 is amended to read as follows:

- (1) For the purposes of KRS Chapter 211:
 - (a) "Child fatality" means the death of a person under the age of eighteen (18) years; and
 - (b) "Local child fatality response team" and "local team" means a community team composed of representatives of agencies, offices, and institutions that investigate child deaths, including but not limited to, coroners, social service workers, medical professionals, law enforcement officials, and Commonwealth's and county attorneys.
- (2) The Department for Public Health may establish a state child fatality review team. The state team may include representatives of public health, social services, law enforcement, prosecution, coroners, health-care providers, and other agencies or professions deemed appropriate by the commissioner of the department.
- (3) If a state team is created, the duties of the state team may include the following:
 - (a) Develop and distribute a model protocol for local child fatality response teams for the investigation of child fatalities;
 - (b) Facilitate the development of local child fatality response teams which may include, but is not limited to, providing joint training opportunities and, upon request, providing technical assistance;
 - (c) Review and approve local protocols prepared and submitted by local teams;
 - (d) Receive data and information on child fatalities and analyze the information to identify trends, patterns, and risk factors;
 - (e) Evaluate the effectiveness of prevention and intervention strategies adopted; and
 - (f) Recommend changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate strategies for prevention and reduce the number of child fatalities.
- (4) The department shall prepare an annual report to be submitted no later than November 1 of each year to the Governor, the *Child Welfare Oversight and Advisory Committee established in Section 1 of this Act* ~~Legislative Research Commission~~, the Chief Justice of the Kentucky Supreme Court, and to be made available to the citizens of the Commonwealth. The report shall include a statistical analysis of the incidence and causes of child fatalities in the Commonwealth during the past fiscal year and recommendations for action. The report shall not include any information which would identify specific child fatality cases.

➔Section 55. KRS 620.055 is amended to read as follows:

- (1) An external child fatality and near fatality review panel is hereby created and established for the purpose of conducting comprehensive reviews of child fatalities and near fatalities, reported to the Cabinet for Health and Family Services, suspected to be a result of abuse or neglect. The panel shall be attached to the Justice and Public Safety Cabinet for staff and administrative purposes.
- (2) The external child fatality and near fatality review panel shall be composed of the following five (5) ex officio nonvoting members and fifteen (15) voting members:
 - (a) The chairperson of the House Health and Welfare Committee of the Kentucky General Assembly, who shall be an ex officio nonvoting member;
 - (b) The chairperson of the Senate Health and Welfare Committee of the Kentucky General Assembly, who shall be an ex officio nonvoting member;
 - (c) The commissioner of the Department for Community Based Services, who shall be an ex officio nonvoting member;
 - (d) The commissioner of the Department for Public Health, who shall be an ex officio nonvoting member;
 - (e) A family court judge selected by the Chief Justice of the Kentucky Supreme Court, who shall be an ex officio nonvoting member;
 - (f) A pediatrician from the University of Kentucky's Department of Pediatrics who is licensed and experienced in forensic medicine relating to child abuse and neglect to be selected by the Attorney General from a list of three (3) names provided by the dean of the University of Kentucky School of Medicine;
 - (g) A pediatrician from the University of Louisville's Department of Pediatrics who is licensed and experienced in forensic medicine relating to child abuse and neglect to be selected by the Attorney General from a list of three (3) names provided by the dean of the University of Louisville School of Medicine;
 - (h) The state medical examiner or designee;
 - (i) A court-appointed special advocate (CASA) program director to be selected by the Attorney General from a list of three (3) names provided by the Kentucky CASA Association;
 - (j) A peace officer with experience investigating child abuse and neglect fatalities and near fatalities to be selected by the Attorney General from a list of three (3) names provided by the commissioner of the Kentucky State Police;
 - (k) A representative from Prevent Child Abuse Kentucky, Inc. to be selected by the Attorney General from a list of three (3) names provided by the president of the Prevent Child Abuse Kentucky, Inc. board of directors;
 - (l) A practicing local prosecutor to be selected by the Attorney General;
 - (m) The executive director of the Kentucky Domestic Violence Association or the executive director's designee;
 - (n) The chairperson of the State Child Fatality Review Team established in accordance with KRS 211.684 or the chairperson's designee;
 - (o) A practicing social work clinician to be selected by the Attorney General from a list of three (3) names provided by the Board of Social Work;
 - (p) A practicing addiction counselor to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Association of Addiction Professionals;
 - (q) A representative from the family resource and youth service centers to be selected by the Attorney General from a list of three (3) names submitted by the Cabinet for Health and Family Services;
 - (r) A representative of a community mental health center to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Association of Regional Mental Health and Mental Retardation Programs, Inc.;
 - (s) A member of a citizen foster care review board selected by the Chief Justice of the Kentucky Supreme Court; and

- (t) An at-large representative who shall serve as chairperson to be selected by the Secretary of State.
- (3)
 - (a) By August 1, 2013, the appointing authority or the appointing authorities, as the case may be, shall have appointed panel members. Initial terms of members, other than those serving ex officio, shall be staggered to provide continuity. Initial appointments shall be: five (5) members for terms of one (1) year, five (5) members for terms of two (2) years, and five (5) members for terms of three (3) years, these terms to expire, in each instance, on June 30 and thereafter until a successor is appointed and accepts appointment.
 - (b) Upon the expiration of these initial staggered terms, successors shall be appointed by the respective appointing authorities, for terms of two (2) years, and until successors are appointed and accept their appointments. Members shall be eligible for reappointment. Vacancies in the membership of the panel shall be filled in the same manner as the original appointments.
 - (c) At any time, a panel member shall recuse himself or herself from the review of a case if the panel member believes he or she has a personal or private conflict of interest.
 - (d) If a voting panel member is absent from two (2) or more consecutive, regularly scheduled meetings, the member shall be considered to have resigned and shall be replaced with a new member in the same manner as the original appointment.
 - (e) If a voting panel member is proven to have violated subsection (13) of this section, the member shall be removed from the panel, and the member shall be replaced with a new member in the same manner as the original appointment.
- (4) The panel shall meet at least quarterly and may meet upon the call of the chairperson of the panel.
- (5) Members of the panel shall receive no compensation for their duties related to the panel, but may be reimbursed for expenses incurred in accordance with state guidelines and administrative regulations.
- (6) Each panel member shall be provided copies of all information set out in this subsection, including but not limited to records and information, upon request, to be gathered, unredacted, and submitted to the panel within thirty (30) days by the Cabinet for Health and Family Services from the Department for Community Based Services or any agency, organization, or entity involved with a child subject to a fatality or near fatality:
 - (a) Cabinet for Health and Family Services records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home, and persons supervising the child at the time of the incident that include all records and documentation set out in this paragraph:
 - 1. All prior and ongoing investigations, services, or contacts;
 - 2. Any and all records of services to the family provided by agencies or individuals contracted by the Cabinet for Health and Family Services; and
 - 3. All documentation of actions taken as a result of child fatality internal reviews conducted pursuant to KRS 620.050(12)(b);
 - (b) Licensing reports from the Cabinet for Health and Family Services, Office of Inspector General, if an incident occurred in a licensed facility;
 - (c) All available records regarding protective services provided out of state;
 - (d) All records of services provided by the Department for Juvenile Justice regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident;
 - (e) Autopsy reports;
 - (f) Emergency medical service, fire department, law enforcement, coroner, and other first responder reports, including but not limited to photos and interviews with family members and witnesses;
 - (g) Medical records regarding the deceased or injured child, including but not limited to all records and documentation set out in this paragraph:
 - 1. Primary care records, including progress notes; developmental milestones; growth charts that include head circumference; all laboratory and X-ray requests and results; and birth record that includes record of delivery type, complications, and initial physical exam of baby;

2. In-home provider care notes about observations of the family, bonding, others in home, and concerns;
 3. Hospitalization and emergency department records;
 4. Dental records;
 5. Specialist records; and
 6. All photographs of injuries of the child that are available;
- (h) Educational records of the deceased or injured child, or other children residing in the home where the incident occurred, including but not limited to the records and documents set out in this paragraph:
1. Attendance records;
 2. Special education services;
 3. School-based health records; and
 4. Documentation of any interaction and services provided to the children and family.

The release of educational records shall be in compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its implementing regulations;

- (i) Head Start records or records from any other child care or early child care provider;
- (j) Records of any Family, Circuit, or District Court involvement with the deceased or injured child and his or her caregivers, residents of the home and persons involved with the child at the time of the incident that include but are not limited to the juvenile and family court records and orders set out in this paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:
1. Petitions;
 2. Court reports by the Department for Community Based Services, guardian ad litem, court-appointed special advocate, and the Citizen Foster Care Review Board;
 3. All orders of the court, including temporary, dispositional, or adjudicatory; and
 4. Documentation of annual or any other review by the court;
- (k) Home visit records from the Department for Public Health or other services;
- (l) All information on prior allegations of abuse or neglect and deaths of children of adults residing in the household;
- (m) All law enforcement records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident; and
- (n) Mental health records regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident.
- (7) The panel may seek the advice of experts, such as persons specializing in the fields of psychiatric and forensic medicine, nursing, psychology, social work, education, law enforcement, family law, or other related fields, if the facts of a case warrant additional expertise.
- (8) The panel shall post updates after each meeting to the Web site of the Justice and Public Safety Cabinet regarding case reviews, findings, and recommendations.
- (9) The panel chairperson, or other requested persons, shall report a summary of the panel's discussions and proposed or actual recommendations to the Interim Joint Committee on Health and Welfare of the Kentucky General Assembly monthly or at the request of a committee co-chair. The goal of the committee shall be to ensure impartiality regarding the operations of the panel during its review process.
- (10) The panel shall publish an annual report by December 1 of each year consisting of case reviews, findings, and recommendations for system and process improvements to help prevent child fatalities and near fatalities that are due to abuse and neglect. The report shall be submitted to the Governor, the secretary of the Cabinet for Health and Family Services, the Chief Justice of the Supreme Court, the Attorney General, and the director of the Legislative Research Commission for distribution to the ***Child Welfare Oversight and Advisory Committee established in Section 1 of this Act***~~[Health and Welfare Committee]~~ and the Judiciary Committee.

- (11) Information and record copies that are confidential under state or federal law and are provided to the external child fatality and near fatality review panel by the Cabinet for Health and Family Services, the Department for Community Based Services, or any agency, organization, or entity for review shall not become the information and records of the panel and shall not lose their confidentiality by virtue of the panel's access to the information and records. The original information and records used to generate information and record copies provided to the panel in accordance with subsection (6) of this section shall be maintained by the appropriate agency in accordance with state and federal law and shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests shall be made to the appropriate agency, not to the external child fatality and near fatality review panel or any of the panel members. Information and record copies provided to the panel for review shall be exempt from the Kentucky Open Records Act, KRS 61.870 to 61.884. At the conclusion of the panel's examination, all copies of information and records provided to the panel involving an individual case shall be destroyed by the Justice and Public Safety Cabinet.
- (12) Notwithstanding any provision of law to the contrary, the portions of the external child fatality and near fatality review panel meetings during which an individual child fatality or near fatality case is reviewed or discussed by panel members may be a closed session and subject to the provisions of KRS 61.815(1) and shall only occur following the conclusion of an open session. At the conclusion of the closed session, the panel shall immediately convene an open session and give a summary of what occurred during the closed session.
- (13) Each member of the external child fatality and near fatality review panel, any person attending a closed panel session, and any person presenting information or records on an individual child fatality or near fatality shall not release information or records not available under the Kentucky Open Records Act, KRS 61.870 to 61.884 to the public.
- (14) A member of the external child fatality and near fatality review panel shall not be prohibited from making a good faith report to any state or federal agency of any information or issue that the panel member believes should be reported or disclosed in an effort to facilitate effectiveness and transparency in Kentucky's child protective services.
- (15) A member of the external child fatality and near fatality review panel shall not be held liable for any civil damages or criminal penalties pursuant to KRS 620.990 as a result of any action taken or omitted in the performance of the member's duties pursuant to this section and KRS 620.050, except for violations of subsection (11), (12), or (13) of this section.
- (16) Beginning in 2014 the Legislative Program Review and Investigations Committee of the Kentucky General Assembly shall conduct an annual evaluation of the external child fatality and near fatality review panel established pursuant to this section to monitor the operations, procedures, and recommendations of the panel and shall report its findings to the General Assembly.

➔Section 56. KRS 620.320 is amended to read as follows:

The duties of the State Citizen Foster Care Review Board shall be to:

- (1) Establish, approve, and provide training programs for local citizen foster care review board members;
- (2) Review and coordinate the activities of local citizen foster care review boards;
- (3) Establish reporting procedures to be followed by the local citizen foster care review boards and publish an annual written report compiling data reported by local foster care review boards which shall include statistics relating, at a minimum, to the following:
 - (a) How the needs of children are being met;
 - (b) The number of times children are moved and reasons for the moves;
 - (c) The average length of time in care;
 - (d) Sibling visitation; and
 - (e) The total number and frequency of reviews;
- (4) Publish an annual written report on the effectiveness of such local citizen foster care review boards; and
- (5) Evaluate and make annual recommendations to the Supreme Court, Governor, and the ***Child Welfare Oversight and Advisory Committee established in Section 1 of this Act*** ~~Legislative Research Commission~~ regarding:
 - (a) Laws of the Commonwealth;

- (b) Practices, policies, and procedures within the Commonwealth affecting permanence for children in out-of-home placement and the investigation of allegations of abuse and neglect;~~and~~
- (c) ***The findings of the local citizen foster care review board community forums conducted pursuant to Section 23 of this Act; and***
- (d) The effectiveness or lack thereof and reasons therefor of local citizen foster care review of children in the custody of the cabinet in bringing about permanence for the Commonwealth's children.

➔Section 57. KRS 17.185 is amended to read as follows:

- (1) As used in this section:

- (a) "Fingerprint card" means the standard Federal Bureau of Investigation FD-258 fingerprint card;
- (b) "Fingerprint-supported background check" means a statewide search of the centralized criminal history record information system created and maintained by the Commonwealth utilizing the fingerprints of the subject of the background check. This shall not include a national check by the Federal Bureau of Investigation ***unless other provisions require a national check***; and
- (c) "Name-based background check" means a statewide search of the centralized criminal history record information system created and maintained by the Commonwealth utilizing the name, date of birth, and Social Security number of the subject of the background check. This shall not include a national check by the Federal Bureau of Investigation.

- (2) Any other provision of law to the contrary notwithstanding, a person may request the Department of Kentucky State Police to conduct a name-based or fingerprint-supported background check of himself or herself and release the results to any person designated by the requester.
- (3) A person requesting a fingerprint-supported background check on himself or herself shall be fingerprinted by a law enforcement agency or other agency approved by the Department of Kentucky State Police to submit fingerprints. The fingerprinting agency shall forward the ***fingerprints***~~fingerprint card~~ to the Department of Kentucky State Police. The fingerprinting agency may charge a fee, not to exceed the actual cost of processing the request.
- (4) A request for a name-based or fingerprint-supported background check shall be submitted ***in a manner***~~on forms~~ approved by the Department of Kentucky State Police.
- (5) The Department of Kentucky State Police may charge a fee for conducting a background check, not to exceed the actual cost of processing the request, to be paid by the requester, ***except that a convenience fee of ten dollars (\$10) may be assessed for electronic requests and shall be retained by the Department of Kentucky State Police.***
- (6) The Department of Kentucky State Police shall promulgate administrative regulations to implement the provisions of this section.

➔Section 58. The following KRS sections are repealed:

- 199.565 Statewide swift adoption procedures -- Protocol -- Teams -- Quarterly report.
- 199.805 Inventory of placements.
- 200.580 Duty of secretary for health and family services.
- 200.585 Duty of Department for Community Based Services.
- 200.590 Eligibility to receive family preservation services.
- 200.595 Effect of furnishing and acceptance of family preservation services.
- 200.600 Annual evaluation of family preservation services.
- 200.605 Funding of family preservation services.

Signed by Governor April 13, 2018.

CHAPTER 160**(HB 270)**

AN ACT relating to county boards of elections.

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

➔Section 1. KRS 117.035 is amended to read as follows:

- (1) There shall be a county board of elections, which shall, at the direction and under the supervision of the State Board of Elections, administer the election laws and the registration and purgation of voters within the county.
- (2) (a) The board shall consist of the county clerk, the sheriff, and two (2) members appointed by the State Board of Elections not later than July 1 following the election of persons to statewide office, for a term of four (4) years and until their successors are appointed.
- (b) The sheriff shall not serve on the board during any year in which he *or she* is a candidate, but shall recommend to the board a temporary replacement to serve in his *or her* place. If the sheriff cannot serve because he *or she* is sick, injured, or otherwise incapacitated, he *or she* may recommend a temporary replacement to serve in his *or her* place until the sheriff may resume his *or her* duties or a vacancy in office is declared.
- (c) The county clerk may, at his *or her* option, continue to serve on the board during a year in which he *or she* is a candidate. If the clerk elects not to serve, he *or she* shall recommend a temporary replacement to serve in his *or her* place. If the county clerk cannot serve because he *or she* is sick, injured, or otherwise incapacitated, he *or she* may recommend a temporary replacement to serve in his *or her* place until the county clerk may resume his *or her* duties or a vacancy in office is declared.
- (d)
 1. Notwithstanding the provisions of KRS 61.080, service on the board of elections shall be compatible with the holding of any other county or city office.
 2. The members shall be at least twenty-one (21) years of age, qualified voters in the county from which they are appointed, and shall not have been convicted of any election law offense.
 3. One (1) member shall be appointed from a list of five (5) names submitted by the county executive committee of each political party as defined in KRS 118.015. If there are two (2) or more contending executive committees of the same political party in any county, the one recognized by the written certificate of the ~~chair~~*chairman* of the state central committee of the political party shall be the one authorized to submit the lists.
 4. If the State Board of Elections does not receive the list as required by subparagraph 3. of this paragraph for each political party for each county by the deadline established in paragraph (a) of this subsection or within one (1) month of a vacancy, then the chair of the state central committees for the political parties may submit lists of five (5) names of qualified residents from the remaining counties by August 1 following the election of persons to statewide office or within two (2) months of a vacancy.
 5. If the State Board of Elections does not receive a list from either the county executive committee under subparagraph 3. of this paragraph or the chair of the state executive committee under subparagraph 4. of this paragraph, then the State Board of Elections shall appoint a qualified resident from the county at its next regularly scheduled meeting in September following the election of persons to statewide office or within three (3) months of a vacancy.
 6. A member appointed by the State Board of Elections may be removed by the State Board of Elections for cause.
 7. A member appointed by the State Board of Elections may be removed by the State Board of Elections upon a request approved by a two-thirds (2/3) vote of the full membership of the county executive committee that submitted the member's name. The county executive shall provide conclusive evidence of the committee's membership and evidence of the committee's two-thirds (2/3) vote before the State Board of Elections removes any member appointed by the State Board of Elections.
 8. If an appointee is temporarily unable to act, a temporary appointee shall be named by the State Board of Elections. A temporary appointee shall serve until the original appointee notifies the State Board of Elections that he *or she* is able to resume his *or her* term.

9. A member appointed by the State Board of Elections shall not serve on the board if he or she is a candidate for public office, and the member shall resign upon filing papers to become a candidate for public office or shall be removed from office by the State Board of Elections. A member who resigns or is removed because of his or her candidacy shall not resume his or her term following the completion of the candidacy.
10. Vacancies and temporary vacancies shall be filled in the same manner as provided for original appointments, and the person appointed to fill the vacancy or temporary vacancy shall be of the same political party as his *or her* predecessor.
- (e) Compensation and payment of actual expenses of members shall be set by the fiscal court either as an amount payable on an annual basis, or as an amount payable on a per diem basis of not less than fifteen dollars (\$15) nor more than one hundred dollars (\$100) for each day the board meets.
- (3) A majority of the board shall constitute a quorum. The county clerk shall serve as ~~chair~~~~chairman~~ of the meetings and may vote. In case of a tie, the ~~chair~~~~chairman~~ may cast an additional vote. Records shall be kept of all proceedings, and the records shall be public and kept at the office of the county clerk.
- (4) The board shall meet *as follows*:
 - (a) *During years in which a primary or regular election is scheduled, the board shall meet* at least once *every other*~~th~~ month and may meet more frequently if necessary *upon the call of the chair or upon written agreement of two (2) or more members of the board. The call shall provide notice as prescribed by KRS 61.823.*
 - (b) *During years in which no primary or regular election is scheduled, the board shall meet at the call of the chair or upon written agreement of two (2) or more members of the board. The call shall provide notice as prescribed by KRS 61.823.*
 - (c) The board shall *meet and* stay in session on *primary, regular election, and special* election days to correct clerical errors and rule on questions regarding voter registration and may make to the election officers such certifications as may be necessary. On *primary, regular election, and special* election days, appeals may be made to a Circuit Judge, but a ruling of the board shall be reversed only upon a finding that it was arbitrary and capricious.
- (5) The board may employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.

Signed by Governor April 13, 2018.

CHAPTER 161

(HJR 74)

A JOINT RESOLUTION relating to road projects.

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

➔Section 1. This Joint Resolution in conjunction with 2018 Regular Session HB 202 shall constitute the Six-Year Road Plan. The last four years of the Six-Year Road Plan are as follows:

Signed by Governor April 13, 2018.

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ADAIR	20000	LN-9008	ADDRESS PAVEMENT CONDITION OF LOUIE B. NUNN CUMBERLAND PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 43.02 TO MILEPOINT 57.79	PL DN RW UT CN	PM PM			400,000 4,000,000	
Project Cost:						0	0	4,400,000	0
Total for ADAIR county				PL DN RW UT CN				400,000 4,000,000	
Total Amounts:						0	0	4,400,000	0
ALLEN	320	KY-100	IMPROVEMENTS TO KY 100: CURVE, BRIDGE, AND INTERSECTION IMPROVEMENTS FROM NEAR THE STONY POINT ROAD INTERSECTION TO EAST OF THE ALONZO LONG HOLLOW ROAD INTERSECTION (12CCR)	PL DN RW UT CN	SPP SPP	1,300,000		12,000,000	
Project Cost:						1,300,000	0	12,000,000	0
ALLEN	8802	KY-100	WIDENING OF KY 100 (FRANKLIN ROAD) TO 3 LANES WITH URBAN SECTION FROM OLIVER STREET TO US 31E TO INCREASE CAPACITY/SAFETY. MP 11.800-12.700 (14CCN)	PL DN RW UT CN	SPP SPP SPP SPP	480,000	380,000	670,000	3,800,000
Project Cost:						480,000	380,000	670,000	3,800,000
Total for ALLEN county				PL DN RW UT CN		480,000	380,000	670,000 12,000,000	3,800,000
Total Amounts:						1,780,000	380,000	12,670,000	3,800,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ANDERSON	20001	BG-9002	ADDRESS PAVEMENT CONDITION OF MARTHA LAYNE COLLINS BLUEGRASS PARKWAY	PL					
			CARDINAL DIRECTION(S) FROM MILEPOINT 58.3 TO MILEPOINT 61.84	DN	PM				150,000
				RW					
				UT					
				CN	PM				1,500,000
			Project Cost:			0	0	0	1,650,000
ANDERSON	80001	US-62	IMPROVE US-62 (VERSAILLES RD.) FROM HILLTOP DR. TO WEST END OF BRIDGE OVER KENTUCKY RIVER AT TYRONE	PL					
				DN					
				RW	SPP	3,300,000			
				UT	SPP		4,000,000		
				CN	SPP			11,300,000	
			Project Cost:			3,300,000	4,000,000	11,300,000	0
Total for ANDERSON county				PL					
				DN					150,000
				RW		3,300,000			
				UT			4,000,000		
				CN				11,300,000	1,500,000
			Total Amounts:			3,300,000	4,000,000	11,300,000	1,650,000
BALLARD	115	US-60	PADUCAH-WICKLIFFE RD: IMPROVE US-60 FROM STAFFORD ROAD TO BETHEL CHURCH ROAD (INCLUDES KEVIL BYPASS)(TO BE LET WITH 1-115.10) (06CCR)(12CCR)(14CCR).	PL					
				DN					
				RW					
				UT	NH	3,500,000			
				CN					
			Project Cost:			3,500,000	0	0	0
BALLARD	115.01	US-60	PADUCAH-WICKLIFFE RD: IMPROVE US-60 FROM STAFFORD ROAD TO BETHEL CHURCH ROAD (INCLUDES KEVIL BYPASS)(TO BE LET WITH 1-115.10) (06CCR)(12CCR)(14CCR).	PL					
				DN					
				RW	NH	2,500,000			
				UT					
				CN					
			Project Cost:			2,500,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BALLARD	118	US-60	IMPROVE US-60 FROM PROPOSED SOUTHERN BYPASS OF LA CENTER TO EAST OF DENIS JONES ROAD. (02CCR)	PL					
				DN					
				RW	NH				2,370,000
				UT	NH				1,900,000
				CN					
			Project Cost:			0	0	0	4,270,000
BALLARD	1140.01	US-51	PE AND ENVIRONMENTAL FOR REPLACEMENT OF CAIRO BRIDGE AT OR BESIDE EXISTING LOCATION. (004B00021N)(SD)	PL					
				DN					
				RW	BR			1,000,000	
				UT	BR			100,000	
				CN	BR			49,500,000	
			Project Cost:			0	0	50,600,000	0
BALLARD	1140.02	US-51	PE AND ENVIRONMENTAL FOR REPLACEMENT OF CAIRO BRIDGE AT OR BESIDE EXISTING LOCATION.(SD)	PL					
				DN	BR		6,500,000		
				RW					
				UT					
				CN	BR				49,500,000
			Project Cost:			0	6,500,000	0	49,500,000
BALLARD	1140.03	US-51	PE AND ENVIRONMENTAL FOR REPLACEMENT OF CAIRO BRIDGE AT OR BESIDE EXISTING LOCATION.	PL					
				DN	BR	20,000,000			
				RW					
				UT					
				CN					
			Project Cost:			20,000,000	0	0	0
Total for BALLARD county				PL					
				DN		20,000,000	6,500,000		
				RW		2,500,000		1,000,000	2,370,000
				UT		3,500,000		100,000	1,900,000
				CN				49,500,000	49,500,000
Total Amounts:						26,000,000	6,500,000	50,600,000	53,770,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BARREN	108.5	KY-90	PRIORITY SECTION 3: IMPROVE KY-90 EAST OF GLASGOW FROM BRIDGE OVER FALLEN TIMBER CREEK TO THE METCALFE COUNTY LINE. (2002BOPC)(08CCR)(10CCR)(12CCR)	PL DN RW UT CN	STP		3,950,000		
Project Cost:						0	3,950,000	0	0
BARREN	108.51	KY-90	PRIORITY SECTION 3: IMPROVE KY-90 EAST OF GLASGOW FROM BRIDGE OVER FALLEN TIMBER CREEK TO THE METCALFE COUNTY LINE. (2002BOPC)(08CCR)(10CCR)(12CCR)	PL DN RW UT CN	STP			9,210,000	
Project Cost:						0	0	9,210,000	0
BARREN	8821	KY-1297	IMPROVE KY-1297 FROM CR-1366 (DONNELLY DRIVE) TO US-31E (ROGER WELLS), AND IMPROVE CR-1366 (DONNELLY DRIVE) FROM KY-1297 TO US-68 IN GLASGOW. (14CCN) (16CCN)	PL DN RW UT CN	STP STP		2,250,000 2,000,000		
Project Cost:						0	4,250,000	0	0
BARREN	8821.01	KY-1297	IMPROVE KY-1297 FROM CR-1366 (DONNELLY DRIVE) TO US-31E (ROGER WELLS), AND IMPROVE CR-1366 (DONNELLY DRIVE) FROM KY-1297 TO US-68 IN GLASGOW. (14CCN) (16CCN)	PL DN RW UT CN	STP STP			2,250,000 2,000,000	
Project Cost:						0	0	4,250,000	0
BARREN	20001	I-65	ADDRESS PAVEMENT CONDITION OF I-065 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 45.935 TO MILEPOINT 46.881	PL DN RW UT CN	PM PM				50,000 500,000
Project Cost:						0	0	0	550,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BARREN	20004	LN-9008	ADDRESS PAVEMENT CONDITION OF LOUIE B. NUNN CUMBERLAND PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 20.1 TO MILEPOINT 22.357	PL DN RW UT CN	PM	180,000			
					PM	1,800,000			
				Project Cost:		1,980,000	0	0	0
BARREN	20005	LN-9008	ADDRESS PAVEMENT CONDITION OF LOUIE B. NUNN CUMBERLAND PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 9.375 TO MILEPOINT 14.85	PL DN RW UT CN	PM	440,000			
					PM	4,400,000			
				Project Cost:		4,840,000	0	0	0
BARREN	20006	US-68	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM	400,000			
					PM	4,000,000			
				Project Cost:		4,400,000	0	0	0
BARREN	20020	US-68	ADDRESS PAVEMENT CONDITION ON US-68 FROM MILEPOINT 0.00 TO MILEPOINT 9.70	PL DN RW UT CN	PM		1,180,000		
				Project Cost:		0	1,180,000	0	0
BARREN	20021	US-68	ADDRESS PAVEMENT CONDITION ON US-68 FROM MILEPOINT 16.95 TO MILEPOINT 23.16	PL DN RW UT CN	PM		920,000		
				Project Cost:		0	920,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BARREN	80002	LN-9008	NEW INTERCHANGE ON THE LOUIE NUNN CUMBERLAND PARKWAY AT KY-249 IN GLASGOW	PL					
				DN					
				RW	SPP	2,000,000			
				UT	SPP		750,000		
				CN	SPP				8,000,000
			Project Cost:			<u>2,000,000</u>	<u>750,000</u>	<u>0</u>	<u>8,000,000</u>
Total for BARREN county				PL					
				DN		1,020,000			50,000
				RW		2,000,000	2,250,000	2,250,000	
				UT			2,750,000	2,000,000	
				CN		<u>10,200,000</u>	<u>6,050,000</u>	<u>9,210,000</u>	<u>8,500,000</u>
			Total Amounts:			<u>13,220,000</u>	<u>11,050,000</u>	<u>13,460,000</u>	<u>8,550,000</u>
BELL	20021	US-25	ADDRESS PAVEMENT CONDITION ON US-25E FROM MILEPOINT 0.90 TO MILEPOINT 2.86	PL					
				DN					
				RW					
				UT					
				CN	PM		1,391,000		
			Project Cost:			<u>0</u>	<u>1,391,000</u>	<u>0</u>	<u>0</u>
BELL	80050		CONSTRUCT A NEW ROADWAY ON PAGE SPUR RD.	PL					
				DN					
				RW					
				UT					
				CN	SPP	<u>650,000</u>			
			Project Cost:			<u>650,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total for BELL county				PL					
				DN					
				RW					
				UT					
				CN		<u>650,000</u>	<u>1,391,000</u>		
			Total Amounts:			<u>650,000</u>	<u>1,391,000</u>	<u>0</u>	<u>0</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BOONE	14	I-75	IMPROVE THE KY-536 (MT. ZION ROAD) INTERCHANGE. (14CCR)(16CCR)	PL					
				DN					
				RW					
				UT					
				CN	NH	5,000,000			
				Project Cost:		5,000,000	0	0	0
BOONE	14.02	I-75	IMPROVE THE KY-536 (MT. ZION ROAD) INTERCHANGE. (14CCR)(16CCR)	PL					
				DN					
				RW					
				UT					
				CN	NH		17,080,000		
				Project Cost:		0	17,080,000	0	0
BOONE	14.5	I-75	ADD AUXILIARY LANES ON I-71/75 FROM KY-536 TO US-42 (NB & SB) AS PER THE INTERCHANGE JUSTIFICATION STUDY (IJS). (10CCR)(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	NH				10,000,000
				Project Cost:		0	0	0	10,000,000
BOONE	78.01	I-275	IMPROVE FREIGHT MOBILITY AT I-275 AND GRAVES ROAD (CONTINUATION OF 6-8953: INTERCHANGE JUSTIFICATION STUDY ON I-275/GRAVES RD).	PL					
				DN					
				RW	NH	4,000,000			
				UT					
				CN	NH		10,000,000		
				Project Cost:		4,000,000	10,000,000	0	0
BOONE	80	I-75	REDUCE CONGESTION AND IMPROVE TRAFFIC MOBILITY AT THE INTERCHANGE OF I-75 AND KY-14 IN WALTON.	PL	NH	500,000			
				DN					
				RW					
				UT					
				CN					
				Project Cost:		500,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BOONE	400.16	-0	NORTHERN KENTUCKY RIDESHARE PROGRAM. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK	44,000			
				Project Cost:		44,000	0	0	0
BOONE	400.17	-0	NORTHERN KENTUCKY RIDESHARE PROGRAM. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK		44,000		
				Project Cost:		0	44,000	0	0
BOONE	401.16	-0	OKI REGIONAL TRANSPORTATION PLANNING. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK	56,000			
				Project Cost:		56,000	0	0	0
BOONE	401.17	-0	OKI REGIONAL TRANSPORTATION PLANNING. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK		56,000		
				Project Cost:		0	56,000	0	0
BOONE	401.21	-0	N KY PLANNING FY 2021 AIR QUALITY, FIAM, LAND USE, RIDESHARE.	PL DN RW UT CN	SNK	150,000			
				Project Cost:		150,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BOONE	444	KY-236	IMPROVE SAFETY AND REDUCE CONGESTION ALONG KY-236 (DONALDSON ROAD) FROM KY-842 (HOUSTON ROAD) TO KY-3076 (MINEOLA PIKE).	PL DN RW UT CN	STP			1,000,000	
				Project Cost:		0	0	1,000,000	0
BOONE	445	KY-3076	IMPROVE FREIGHT MOBILITY AND REDUCE CONGESTION ON KY-3076 (MINEOLA PIKE) FROM KY-236 TO I-275.	PL DN RW UT CN	STP		4,000,000	750,000	
				Project Cost:		0	4,000,000	750,000	0
BOONE	447	US-25	IMPROVE MOBILITY AND REDUCE CONGESTION ON US-25 FROM WINNING COLORS DRIVE TO THE NORFOLK SOUTHERN RAILROAD CROSSING SOUTH OF KY-1829 (INDUSTRIAL ROAD); EXCLUDES GRADE SEPARATION AT	PL DN RW UT CN	STP			3,300,000	
				Project Cost:		0	0	3,300,000	0
BOONE	966.09	-0	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR NKY URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2021. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK	9,200,000			
				Project Cost:		9,200,000	0	0	0
BOONE	966.1	-0	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR NKY URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2022. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK		9,200,000		
				Project Cost:		0	9,200,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BOONE	966.11	-0	DEDICATED FEDERAL-AID STP FUNDS	PL					
			EARMARKED FOR NKY URBANIZED AREA AND	DN					
			SUBJECT TO MPO CONTROL FOR FY 2023.	RW					
			(FUNDING SUBJECT TO FISCAL CONSTRAINT	UT					
			PENDING MPO TIP)	CN	SNK			9,200,000	
			Project Cost:			0	0	9,200,000	0
BOONE	966.12	-0	DEDICATED FEDERAL-AID STP FUNDS	PL					
			EARMARKED FOR NKY URBANIZED AREA AND	DN					
			SUBJECT TO MPO CONTROL FOR FY 2024.	RW					
			(FUNDING SUBJECT TO FISCAL CONSTRAINT	UT					
			PENDING MPO TIP)	CN	SNK				9,200,000
			Project Cost:			0	0	0	9,200,000
BOONE	1087	KY-842	ADDRESS DEFICIENCIES OF BRIDGE OVER NS	PL					
			(CNO&TP)RR ON RICHARDSON ROAD (KY 842)	DN					
			0.14 MI E OF US 25 NEAR INDEPENDENCE	RW					
			(008B00092N)	UT					
				CN	BR		3,500,000		
			Project Cost:			0	3,500,000	0	0
BOONE	20001	I-71	ADDRESS PAVEMENT CONDITION OF I-071 BOTH	PL					
			DIRECTION(S) FROM MILEPOINT 69.89 TO	DN	PM				650,000
			MILEPOINT 77.724.	RW					
				UT					
				CN	PM				6,500,000
			Project Cost:			0	0	0	7,150,000
BOONE	20004	I-75	ADDRESS PAVEMENT CONDITION OF PCC	PL					
			PAVEMENT ON I-075 BOTH DIRECTION(S) FROM	DN	PM	100,000			
			MILEPOINT 183.08 (182.9 NON-CARDINAL) TO	RW					
			MILEPOINT 183.312	UT					
				CN	PM	1,000,000			
			Project Cost:			1,100,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BOONE	20005	I-275	ADDRESS PAVEMENT CONDITION OF I-275 BOTH DIRECTION(S) FROM MILEPOINT 13.076 TO MILEPOINT 13.7	PL					
				DN	PM	50,000			
				RW					
				UT					
				CN	PM	500,000			
			Project Cost:			550,000	0	0	0
BOONE	20006	I-275	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-275 BOTH DIRECTION(S) FROM MILEPOINT 1.58 TO MILEPOINT 7.25	PL					
				DN	PM	850,000			
				RW					
				UT					
				CN	PM	8,500,000			
			Project Cost:			9,350,000	0	0	0
BOONE	20007	I-275	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-275 BOTH DIRECTION(S) FROM MILEPOINT 7.25 TO MILEPOINT 13.08 (13.56 NON-CARDINAL)	PL					
				DN	PM				650,000
				RW					
				UT					
				CN	PM				6,500,000
			Project Cost:			0	0	0	7,150,000
BOONE	20009	KY-237	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL					
				DN	PM	320,000			
				RW					
				UT					
				CN	PM	3,200,000			
			Project Cost:			3,520,000	0	0	0
BOONE	20047	US-42	ADDRESS PAVEMENT CONDITION ON US-42 FROM MILEPOINT 8.71 TO MILEPOINT 11.63	PL					
				DN					
				RW					
				UT					
				CN	PM			438,000	
			Project Cost:			0	0	438,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
Total for BOONE county				PL		650,000			
				DN		1,320,000		3,300,000	1,300,000
				RW		4,000,000	4,000,000	1,000,000	
				UT				750,000	
				CN		27,500,000	39,880,000	9,638,000	32,200,000
				Total Amounts:		33,470,000	43,880,000	14,688,000	33,500,000
BOURBON	8705	US-460	IMPROVE US-460 FROM RUSSELL CAVE ROAD TO US-27 BYPASS IN PARIS.(12CCN)(14CCR) (16CCR)	PL					
				DN					
				RW					
				UT					
				CN	STP	5,620,000			
				Project Cost:		5,620,000	0	0	0
BOURBON	8705.01	US-460	IMPROVE US-460 FROM RUSSELL CAVE ROAD TO US-27 BYPASS IN PARIS.(12CCN)(14CCR) (16CCR)	PL					
				DN					
				RW	STP	2,030,000			
				UT	STP	1,500,000			
				CN	STP			6,880,000	
				Project Cost:		3,530,000	0	6,880,000	0
Total for BOURBON county				PL					
				DN					
				RW		2,030,000			
				UT		1,500,000			
				CN		5,620,000		6,880,000	
				Total Amounts:		9,150,000	0	6,880,000	0
BOYD	208.07	-0	FEDERAL 'STP' FUNDS DEDICATED TO HUNTINGTON-ASHLAND MPO FOR FY 2021. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL					
				DN					
				RW					
				UT					
				CN	SAH	1,600,000			
				Project Cost:		1,600,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BOYD	208.08	-0	FEDERAL 'STP' FUNDS DEDICATED TO HUNTINGTON-ASHLAND MPO FOR FY 2022. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SAH		1,600,000		
				Project Cost:		0	1,600,000	0	0
BOYD	208.09	-0	FEDERAL 'STP' FUNDS DEDICATED TO HUNTINGTON-ASHLAND MPO FOR FY 2023. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SAH			1,600,000	
				Project Cost:		0	0	1,600,000	0
BOYD	208.1	-0	FEDERAL 'STP' FUNDS DEDICATED TO HUNTINGTON-ASHLAND MPO FOR FY 2024. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SAH				1,600,000
				Project Cost:		0	0	0	1,600,000
BOYD	8400.01	US-60	IMPROVE US-60 FROM I-64 AT INTERCHANGE 181 TO THE KY-180 INTERSECTION AT CANNONSBURG. (08CCN) (10CCR)(12CCR)	PL DN RW UT CN	SPP	15,000,000			
				Project Cost:		15,000,000	0	0	0
BOYD	20003	I-64	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 183.95 TO MILEPOINT 191.507	PL DN RW UT CN	PM			600,000	
				Project Cost:	PM	0	0	6,000,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
BOYD	20015	US-23	ADDRESS PAVEMENT CONDITION ON US-23 FROM MILEPOINT 10.67 TO MILEPOINT 16.95	PL					
				DN					
				RW					
				UT					
				CN	PM		2,365,000		
				Project Cost:		0	2,365,000	0	0
BOYD	20016	US-23	ADDRESS PAVEMENT CONDITION ON US-23 FROM MILEPOINT 2.92 TO MILEPOINT 10.67	PL					
				DN					
				RW					
				UT					
				CN	PM			4,288,000	
				Project Cost:		0	0	4,288,000	0
Total for BOYD county				PL					
				DN			600,000		
				RW					
				UT					
				CN	16,600,000	3,965,000	11,888,000	1,600,000	
Total Amounts:					16,600,000	3,965,000	12,488,000	1,600,000	
BOYLE	20024	US-127	ADDRESS PAVEMENT CONDITION ON US-127B FROM MILEPOINT 0.00 TO MILEPOINT 5.27	PL					
				DN					
				RW					
				UT					
				CN	PM		2,301,000		
				Project Cost:		0	2,301,000	0	0
BOYLE	80000		CONSTRUCT A NEW CONNECTOR ROAD ON THE EAST SIDE OF DANVILLE CONNECTING KY-34 AND US-150 BYPASS	PL					
				DN	SPP	1,500,000			
				RW					
				UT					
				CN					
				Project Cost:		1,500,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for BOYLE county				PL					
				DN		1,500,000			
				RW					
				UT					
				CN			2,301,000		
				Total Amounts:		<u>1,500,000</u>	<u>2,301,000</u>	<u>0</u>	<u>0</u>
BRACKEN	355.23	KY-8	OPERATION OF AUGUSTA FERRY FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	SPP	<u>190,000</u>			
				Project Cost:		<u>190,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
BRACKEN	355.24	KY-8	OPERATION OF AUGUSTA FERRY FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	SPP		<u>190,000</u>		
				Project Cost:		<u>0</u>	<u>190,000</u>	<u>0</u>	<u>0</u>
BRACKEN	355.25	KY-8	OPERATION OF AUGUSTA FERRY FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	SPP			<u>190,000</u>	
				Project Cost:		<u>0</u>	<u>0</u>	<u>190,000</u>	<u>0</u>
BRACKEN	355.26	KY-8	OPERATION OF AUGUSTA FERRY FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	SPP				<u>190,000</u>
				Project Cost:		<u>0</u>	<u>0</u>	<u>0</u>	<u>190,000</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BRACKEN	20048	KY-8	ADDRESS PAVEMENT CONDITION ON KY-8 FROM MILEPOINT 13.95 TO MILEPOINT 18.99	PL DN RW UT CN	PM				552,000
				Project Cost:		0	0	0	552,000
Total for BRACKEN county				PL DN RW UT CN		190,000	190,000	190,000	742,000
				Total Amounts:		190,000	190,000	190,000	742,000
BREATHITT	375	KY-205	IMPROVE KY-205 FROM NORTH OF KY-1812 TO SOUTH OF PEGGS FORK RD.	PL DN RW UT CN	STP STP	1,000,000		1,030,000	
				Project Cost:		1,000,000	0	1,030,000	0
BREATHITT	376	KY-15	IMPROVE KY-15 FROM THE INTERSECTION OF NEW KY-15/30 TO INTERSECTION OF KY-1812.	PL DN RW UT CN	NH NH NH	2,900,000	1,150,000	7,500,000	
				Project Cost:		2,900,000	1,150,000	7,500,000	0
Total for BREATHITT county				PL DN RW UT CN		1,000,000	1,150,000	1,030,000	
				Total Amounts:		3,900,000	1,150,000	8,530,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BRECKINRIDGE	8902	KY-261	REPLACE LOW WATER STRUCTURE ON KY 261 AT MP 15.74	PL					
				DN	SPP	100,000			
				RW	SPP		25,000		
				UT	SPP		25,000		
				CN	SPP		400,000		
				Project Cost:		<u>100,000</u>	<u>450,000</u>	<u>0</u>	<u>0</u>
BRECKINRIDGE	8904	KY-992	MINOR WIDENING OF KY 992 BETWEEN ROCK QUARRY AND US 60.	PL					
				DN					
				RW					
				UT					
				CN	SPP	580,000			
				Project Cost:		<u>580,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
BRECKINRIDGE	20025	US-60	ADDRESS PAVEMENT CONDITION ON US-60 FROM MILEPOINT 0.00 TO MILEPOINT 2.78	PL					
				DN					
				RW					
				UT					
				CN	PM		642,000		
				Project Cost:		<u>0</u>	<u>642,000</u>	<u>0</u>	<u>0</u>
BRECKINRIDGE	20026	US-60	ADDRESS PAVEMENT CONDITION ON US-60 FROM MILEPOINT 3.45 TO MILEPOINT 12.74	PL					
				DN					
				RW					
				UT					
				CN	PM		1,739,000		
				Project Cost:		<u>0</u>	<u>1,739,000</u>	<u>0</u>	<u>0</u>
Total for BRECKINRIDGE county				PL					
			DN		100,000				
			RW			25,000			
			UT			25,000			
			CN		580,000	2,781,000			
			Total Amounts:		<u>680,000</u>	<u>2,831,000</u>	<u>0</u>	<u>0</u>	

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BULLITT	150.5	KY-44	SECTION 5 - FROM US-31EX TO US-31E BYPASS. (2008BOPC).	PL					
				DN					
				RW	SPP				1,550,000
				UT	SPP				550,000
				CN					
			Project Cost:			0	0	0	2,100,000
BULLITT	347.51	KY-44	NEW TURN LANES IN FRONT OF BULLITT EAST HIGH SCHOOL. BREAKOUT FROM 347.5	PL					
				DN					
				RW					
				UT	SPP	545,000			
				CN	SPP		575,000		
			Project Cost:			545,000	575,000	0	0
BULLITT	391.2	KY-480	WIDEN CEDAR GROVE ROAD (KY-480) FROM CEDAR GROVE ELEMENTARY SCHOOL TO VALLEY VIEW DRIVE. (12CCR)(14CCR) (SEE 5-391.3 FOR INTERCHANGE IMPROVEMENTS)	PL					
				DN					
				RW					
				UT					
				CN	STP		6,240,000		
			Project Cost:			0	6,240,000	0	0
BULLITT	391.3	KY-480	IMPROVE OPERATIONAL PERFORMANCE OF THE I-65/KY-480 INTERCHANGE INCLUDING RAMP IMPROVEMENTS AND TURNING LANES. (12CCR) (14CCR)(2014BOP)(16CCR)	PL					
				DN					
				RW					
				UT					
				CN	NH			5,970,000	
			Project Cost:			0	0	5,970,000	0
BULLITT	550	I-65	WIDEN I-65 FROM 6 TO 8 LANES FROM KY-61 (PRESTON HIGHWAY) IN LEBANON JUNCTION TO I-265 (GENE SNYDER FREEWAY)	PL					
				DN	NH		7,470,000		
				RW					
				UT					
				CN					
			Project Cost:			0	7,470,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BULLITT	8509	KY-245	WIDEN KY-245 FROM BERNHEIM FOREST TO THE COMMUNITY COLLEGE. (08CCN)(10CCR)(14CCR) (16CCR)	PL DN RW UT CN	STP		12,640,000		
				Project Cost:		0	12,640,000	0	0
BULLITT	8856	I-65	SOUND BARRIERS ON EAST SIDE OF I-65 BETWEEN MP 117.4 AND MP 117.8. (14CCN)	PL DN RW UT CN	SPP		2,000,000		
				Project Cost:		0	2,000,000	0	0
BULLITT	20036	KY-480	ADDRESS PAVEMENT CONDITION ON KY-480 FROM MILEPOINT 0.00 TO MILEPOINT 5.14	PL DN RW UT CN	PM		910,000		
				Project Cost:		0	910,000	0	0
BULLITT	20037	KY-245	ADDRESS PAVEMENT CONDITION ON KY-245 FROM MILEPOINT 0.00 TO MILEPOINT 7.18	PL DN RW UT CN	PM			1,094,000	
				Project Cost:		0	0	1,094,000	0
Total for BULLITT county				PL DN RW UT CN			7,470,000		
						545,000			1,550,000
							22,365,000	7,064,000	550,000
				Total Amounts:		545,000	29,835,000	7,064,000	2,100,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BUTLER	125.16	KY-269	OPERATION OF REED'S FERRY AT LOGANSPO FOR FY 2021.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	157,200			
			Project Cost:			157,200	0	0	0
BUTLER	125.17	KY-269	OPERATION OF REED'S FERRY AT LOGANSPO FOR FY 2022.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP		157,200		
			Project Cost:			0	157,200	0	0
BUTLER	125.18	KY-269	OPERATION OF REED'S FERRY AT LOGANSPO FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	SPP			157,200	
			Project Cost:			0	0	157,200	0
BUTLER	125.19	KY-269	OPERATION OF REED'S FERRY AT LOGANSPO FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	SPP				157,200
			Project Cost:			0	0	0	157,200
BUTLER	2042.3	WN-9007	I-65 SPUR CORRIDOR: IMPROVE THE NATCHER PARKWAY/US-231 INTERCHANGE (EXIT 36). (2016BOP)	PL					
				DN					
				RW					
				UT					
				CN	NH	6,750,000			
			Project Cost:			6,750,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BUTLER	8504.11	KY-369	OPERATION OF THE ROCHESTER FERRY BY THE BUTLER AND OHIO COUNTY FERRY AUTHORITY FOR FY 2021.(12CCR)	PL DN RW UT CN	SPP	157,200			
			Project Cost:			157,200	0	0	0
BUTLER	8504.12	KY-369	OPERATION OF THE ROCHESTER FERRY BY THE BUTLER AND OHIO COUNTY FERRY AUTHORITY FOR FY 2022.(12CCR)	PL DN RW UT CN	SPP		157,200		
			Project Cost:			0	157,200	0	0
BUTLER	8504.13	KY-369	OPERATION OF THE ROCHESTER FERRY BY THE BUTLER AND OHIO COUNTY FERRY AUTHORITY FOR FY 2023.	PL DN RW UT CN	SPP			157,200	
			Project Cost:			0	0	157,200	0
BUTLER	8504.14	KY-369	OPERATION OF THE ROCHESTER FERRY BY THE BUTLER AND OHIO COUNTY FERRY AUTHORITY FOR FY 2024.	PL DN RW UT CN	SPP				157,200
			Project Cost:			0	0	0	157,200
BUTLER	20007	WK-9001	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 87.544 TO MILEPOINT 88.433	PL DN RW UT CN	PM PM	70,000			
			Project Cost:			700,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
BUTLER	20008	WN-9007	ADDRESS PAVEMENT CONDITION OF WILLIAM H. NATCHER PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 21.78 TO MILEPOINT 28.5 (26.42 NON-CARDINAL)	PL DN RW UT CN	PM PM		540,000		
			Project Cost:			0	5,940,000	0	0
BUTLER	20009	WN-9007	ADDRESS PAVEMENT CONDITION OF WILLIAM H. NATCHER PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 28.50 (26.42 NON-CARDINAL) TO MILEPOINT 34.72	PL DN RW UT CN	PM PM				675,000
			Project Cost:			0	0	0	6,750,000
Total for BUTLER county				PL DN RW UT CN		70,000	540,000		675,000
				Total Amounts:		7,764,400	5,714,400	314,400	7,064,400
						7,834,400	6,254,400	314,400	7,739,400
CALDWELL	153	-0	NEW CONNECTOR FROM HOPKINSVILLE ROAD (KY-91) TO WILSON WAREHOUSE ROAD (KY-293) NORTHEAST OF PRINCETON. (06CCR) (10CCR)(12CCR)(14CCR)	PL DN RW UT CN	 SPP SPP SPP	3,000,000		2,000,000	14,000,000
			Project Cost:			3,000,000	0	2,000,000	14,000,000
CALDWELL	20000	I-24	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-24 BOTH DIRECTION(S) FROM MILEPOINT 54.842 TO MILEPOINT 57.389	PL DN RW UT CN	PM PM		250,000		
			Project Cost:			0	2,500,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CALDWELL	20004	I-69	ADDRESS PAVEMENT CONDITION OF I-069 BOTH DIRECTION(S) FROM MILEPOINT 82.934 TO MILEPOINT 86.344	PL DN RW UT CN	PM	400,000 4,000,000			
Project Cost:						4,400,000	0	0	0
Total for CALDWELL county				PL DN RW UT CN		400,000 3,000,000 4,000,000	250,000 2,500,000	2,000,000	14,000,000
Total Amounts:						7,400,000	2,750,000	2,000,000	14,000,000
CALLOWAY	314.2	US-641	IMPROVE US-641 FROM THE TENNESSEE STATE LINE TO MURRAY PRIORITY SECTION 2; FROM TENN. STATE LINE TO CLARKS RIVER BRIDGE. (SEE 1-8852.00)	PL DN RW UT CN	NH	15,000,000 15,000,000			
Project Cost:						15,000,000	0	0	0
CALLOWAY	314.21	US-641	IMPROVE US-641 FROM THE TENNESSEE STATE LINE TO MURRAY PRIORITY SECTION 2; FROM TENN. STATE LINE TO CLARKS RIVER BRIDGE. (SEE 1-8852.00)	PL DN RW UT CN	NH	 10,000,000	10,000,000		
Project Cost:						0	10,000,000	0	0
CALLOWAY	20024	KY-121	ADDRESS PAVEMENT CONDITION ON KY-121 FROM MILEPOINT 10.51 TO MILEPOINT 14.08	PL DN RW UT CN	PM	 635,000		635,000	
Project Cost:						0	0	635,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CALLOWAY	20025	KY-121	ADDRESS PAVEMENT CONDITION ON KY-121 FROM MILEPOINT 0.00 TO MILEPOINT 10.51	PL DN RW UT CN	PM			1,872,000	
			Project Cost:			0	0	1,872,000	0
CALLOWAY	20026	KY-94	ADDRESS PAVEMENT CONDITION ON KY-94 FROM MILEPOINT 13.11 TO MILEPOINT 24.21	PL DN RW UT CN	PM			1,977,000	
			Project Cost:			0	0	1,977,000	0
Total for CALLOWAY county				PL DN RW UT CN					
			Total Amounts:			15,000,000	10,000,000	4,484,000	0
CAMPBELL	81	I-471	REDUCE CONGESTION ALONG THE I-471 CORRIDOR FROM US-27 TO OHIO STATE LINE.	PL DN RW UT CN	NH				4,500,000
			Project Cost:			0	0	0	4,500,000
CAMPBELL	448	KY-9	IMPROVE SAFETY AND REDUCE CONGESTION AT THE I-275 INTERCHANGE WITH KY-9 (AA HWY.)	PL DN RW UT CN	NH	700,000			
			Project Cost:			700,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CAMPBELL	452	US-27	US 27 SOUTH MONMOUTH UNDERPASS. IMPROVE FOR PEDESTRIANS BY REPLACING OBSOLETE STAIRS/WALKWAY WITH 10' SIDEWALK, LIGHTING BUS STOPS AT THE UNDERPASS OF THE CSX RAILROAD BRIDGE	PL DN RW UT CN	SNK	1,320,000			
Project Cost:						1,320,000	0	0	0
CAMPBELL	20010	I-275	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-275 BOTH DIRECTION(S) FROM MILEPOINT 73.061 TO MILEPOINT 77.58	PL DN RW UT CN	PM				675,000
Project Cost:						0	0	0	6,750,000
CAMPBELL	20011	I-471	ADDRESS PAVEMENT CONDITION OF I-471 BOTH DIRECTION(S) FROM MILEPOINT 0 TO MILEPOINT 4.75	PL DN RW UT CN	PM				575,000
Project Cost:						0	0	0	5,750,000
CAMPBELL	20012	KY-8	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM	225,000			
Project Cost:						2,250,000	0	0	0
CAMPBELL	20013	KY-9	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM	225,000			
Project Cost:						2,250,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CAMPBELL	20014	KY-1892	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	250,000			
				RW					
				UT					
				CN	PM	2,500,000			
			Project Cost:			2,750,000	0	0	0
CAMPBELL	20015	US-27	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL					
				DN	PM	275,000			
				RW					
				UT					
				CN	PM	2,750,000			
			Project Cost:			3,025,000	0	0	0
CAMPBELL	20017	US-27	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	75,000			
				RW					
				UT					
				CN	PM	750,000			
			Project Cost:			825,000	0	0	0
CAMPBELL	20049	KY-8	ADDRESS PAVEMENT CONDITION ON KY-8 FROM MILEPOINT 15.97 TO MILEPOINT 19.36	PL					
				DN					
				RW					
				UT					
				CN	PM				583,000
			Project Cost:			0	0	0	583,000
Total for CAMPBELL county				PL		700,000			4,500,000
				DN		1,050,000			1,250,000
				RW					
				UT					
				CN		11,820,000			13,083,000
			Total Amounts:			13,570,000	0	0	18,833,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CARROLL	1084	US-42	ADDRESS DEFICIENCIES OF BRIDGE OVER KENTUCKY RIVER ON US 42 IN PRESTONVILLE/CARROLLTON 0.13 MI E OF KY 55. (021B00043N)	PL DN RW UT CN	BR		17,717,000		
Project Cost:						0	17,717,000	0	0
CARROLL	20020	I-71	ADDRESS PAVEMENT CONDITION OF I-071 BOTH DIRECTION(S) FROM MILEPOINT 50.808 TO MILEPOINT 53.433	PL DN RW UT CN	PM				275,000
Project Cost:						0	0	0	2,750,000
									3,025,000
CARROLL	20050	KY-467	ADDRESS PAVEMENT CONDITION ON KY-467 FROM MILEPOINT 0.00 TO MILEPOINT 4.52	PL DN RW UT CN	PM		365,000		
Project Cost:						0	365,000	0	0
Total for CARROLL county				PL DN RW UT CN			18,082,000		2,750,000
Total Amounts:						0	18,082,000	0	3,025,000
CARTER	144	KY-7	IMPROVE KY-7/KY-1 (CAROL MALONE BLVD.) FROM LITTLE SANDY RIVER BRIDGE TO ACADEMIC PARKWAY. (08CCR)(12CCR)(16CCR)	PL DN RW UT CN	SPP	3,120,000			
Project Cost:						3,120,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CARTER	397.01	KY-67	SAFETY, SPOT IMPROVEMENTS AND CONGESTION MITIGATION FOR INDUSTRIAL PARKWAY (KY 67) IN CARTER, BOYD, AND GREENUP COUNTIES FOR BRAIDY INDUSTRIES ALUMINUM PLANT DEVELOPMENT. (ADDITIONAL	PL DN RW UT CN	STP	5,000,000			
			Project Cost:			5,000,000	0	0	0
CARTER	397.02	KY-67	SAFETY, SPOT IMPROVEMENTS AND CONGESTION MITIGATION FOR INDUSTRIAL PARKWAY (KY 67) IN CARTER, BOYD, AND GREENUP COUNTIES FOR BRAIDY INDUSTRIES ALUMINUM PLANT DEVELOPMENT. (ADDITIONAL	PL DN RW UT CN	STP			5,000,000	
			Project Cost:			0	0	5,000,000	0
CARTER	8311	KY-1	IMPROVE SAFETY AT THE EAST CARTER HIGH SCHOOL. (06CCN)(08CCR)(12CCR)	PL DN RW UT CN	SPP SPP	490,000	2,000,000		
			Project Cost:			490,000	2,000,000	0	0
CARTER	20006	KY-9	ADDRESS PAVEMENT CONDITION	PL DN RW UT CN	PM PM	320,000			
			Project Cost:			3,200,000			
						3,520,000	0	0	0
CARTER	20007	KY-9	ADDRESS PAVEMENT CONDITION	PL DN RW UT CN	PM PM	150,000			
			Project Cost:			1,500,000			
						1,650,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
CARTER	20008	KY-9	ADDRESS PAVEMENT CONDITION	PL					
				DN	PM	350,000			
				RW					
				UT					
				CN	PM	3,500,000			
				Project Cost:		3,850,000	0	0	0
CARTER	80050	US-60	IMPROVE US-60 GEOMETRY BEGINNING TERMINI AT NEW CONSTRUCTION AT OLIVE HILL MP 12.4 EXTENDING 1.1 MILES TO I-64 EXIT 161.	PL					
				DN	SPP	1,900,000			
				RW	SPP				2,750,000
				UT	SPP				2,300,000
				CN	SPP				7,500,000
				Project Cost:		0	1,900,000	0	12,550,000
Total for CARTER county				PL					
			DN		820,000	1,900,000			
			RW						2,750,000
			UT		490,000				2,300,000
			CN		16,320,000	2,000,000	5,000,000		7,500,000
			Total Amounts:		17,630,000	3,900,000	5,000,000		12,550,000
CASEY	8703	KY-70	RECONSTRUCT BELL HILL FROM MP 10.4 TO MP 11.9.(12CCN)	PL					
				DN	SPP	1,560,000			
				RW	SPP			3,420,000	
				UT					
				CN					
				Project Cost:		1,560,000	0	3,420,000	0
CASEY	8704	KY-49	RECONSTRUCT BRUSHY CREEK HILL FROM MP 1.8 TO MP 2.8.(12CCN)	PL					
				DN					
				RW	SPP			1,320,000	
				UT	SPP				1,040,000
				CN					
				Project Cost:		0	0	1,320,000	1,040,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
Total for CASEY county				PL					
				DN		1,560,000			
				RW				4,740,000	
				UT					1,040,000
				CN					
				Total Amounts:		<u>1,560,000</u>	<u>0</u>	<u>4,740,000</u>	<u>1,040,000</u>
CHRISTIAN	136	KY-1682	EXTEND KY-1682 FROM THE E.T. BREATHITT PARKWAY TO US-68/KY-80 EAST OF HOPKINSVILLE (HOPKINSVILLE NORTHEAST BYPASS).	PL					
				DN	SPP				1,000,000
				RW					
				UT					
				CN					
				Project Cost:		<u>0</u>	<u>0</u>	<u>0</u>	<u>1,000,000</u>
CHRISTIAN	180.01	KY-911	IMPROVE KY-911 FROM US-41A TO OAK GROVE.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	STP	<u>5,910,000</u>			
				Project Cost:		<u>5,910,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
CHRISTIAN	227	KY-1007	RECONSTRUCT KY 1007 FROM US 68 TO SANDERSON ROAD IN HOPKINSVILLE.(12CCR) (14CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	<u>0</u>	<u>11,250,000</u>	<u>0</u>	<u>0</u>
				Project Cost:		<u>0</u>	<u>11,250,000</u>	<u>0</u>	<u>0</u>
CHRISTIAN	381	US-41	CONSTRUCT NEW CONNECTOR FROM US 41 NEAR THE INDUSTRIAL PARK TO KY 115 SOUTH OF PEMBROKE.	PL					
				DN					
				RW	SPP		300,000		
				UT	SPP		700,000		
				CN	SPP			<u>12,000,000</u>	
				Project Cost:		<u>0</u>	<u>1,000,000</u>	<u>12,000,000</u>	<u>0</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CHRISTIAN	898	EB-9004	RECONSTRUCT THE BREATHITT PARKWAY INTERCHANGE AT KY 1682 NORTH OF HOPKINSVILLE. (BREATHITT PARKWAY/FUTURE INTERSTATE SPUR PROJECT)	PL					
				DN					
				RW					
				UT	NH	1,000,000			
				CN	NH			5,000,000	
				Project Cost:		1,000,000	0	5,000,000	0
CHRISTIAN	899	US-68	ADDRESS CONGESTION AND MOBILITY OF US 68 FROM KY 91 TO KY 1007 IN HOPKINSVILLE.	PL					
				DN	SPP	1,200,000			
				RW	SPP			1,750,000	
				UT	SPP			1,500,000	
				CN	SPP				5,500,000
				Project Cost:		1,200,000	0	3,250,000	5,500,000
CHRISTIAN	8703	KY-107	IMPROVE KY-107 FROM GATEWAY LANE TO KY-380.(12CCN)(14CCR)	PL					
				DN					
				RW	SPP		1,280,000		
				UT	SPP			1,530,000	
				CN	SPP				2,540,000
				Project Cost:		0	1,280,000	1,530,000	2,540,000
CHRISTIAN	8953	KY-115	IMPROVE AND WIDEN KY 115 FROM ANDERSON ROAD (MP 6.87) TO JUST SOUTH OF PEMBROKE (MP 9.625)	PL					
				DN	SPP	1,000,000			
				RW					
				UT					
				CN					
				Project Cost:		1,000,000	0	0	0
CHRISTIAN	20008	EB-9004	ADDRESS PAVEMENT CONDITION OF EDWARD T. BREATHITT PENNYRILE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 4.719 TO MILEPOINT 6.77	PL					
				DN	PM			175,000	
				RW					
				UT					
				CN	PM			1,750,000	
				Project Cost:		0	0	1,925,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CHRISTIAN	20010	I-24	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-024 CARDINAL DIRECTION(S) FROM MILEPOINT 69.83 TO MILEPOINT 76.142	PL					
				DN	PM		325,000		
				RW					
				UT					
				CN	PM		3,250,000		
				Project Cost:		0	3,575,000	0	0
CHRISTIAN	20011	I-24	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-024 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 69.83 TO MILEPOINT 81.83	PL					
				DN	PM				600,000
				RW					
				UT					
				CN	PM				6,000,000
				Project Cost:		0	0	0	6,600,000
CHRISTIAN	20012	I-24	ADDRESS PAVEMENT CONDITION OF I-024 CARDINAL DIRECTION(S) FROM MILEPOINT 76.142 TO MILEPOINT 85.563	PL					
				DN	PM			475,000	
				RW					
				UT					
				CN	PM			4,750,000	
				Project Cost:		0	0	5,225,000	0
CHRISTIAN	20013	I-24	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-024 BOTH DIRECTION(S) FROM MILEPOINT 85.563 TO MILEPOINT 92	PL					
				DN	PM		650,000		
				RW					
				UT					
				CN	PM		6,500,000		
				Project Cost:		0	7,150,000	0	0
CHRISTIAN	20016	US-68	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	75,000			
				RW					
				UT					
				CN	PM	750,000			
				Project Cost:		825,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CHRISTIAN	20046	US-41	ADDRESS PAVEMENT CONDITION ON US-41 FROM MILEPOINT 14.79 TO MILEPOINT 31.57	PL					
				DN					
				RW					
				UT					
				CN	PM		1,635,000		
			Project Cost:			0	1,635,000	0	0
Total for CHRISTIAN county				PL					
				DN		2,275,000	975,000	650,000	1,600,000
				RW			1,580,000	1,750,000	
				UT		1,000,000	700,000	3,030,000	
				CN		6,660,000	22,635,000	23,500,000	14,040,000
			Total Amounts:			9,935,000	25,890,000	28,930,000	15,640,000
CLARK	8401	KY-1958	EXTEND THE WINCHESTER EAST BYPASS (KY 1958) FROM IRVINE ROAD (KY 89) TO KY 627 SOUTH OF WINCHESTER. (08CCN)(10CCR)	PL					
				DN					
				RW					
				UT	SPP		11,000,000		
				CN	SPP				12,000,000
			Project Cost:			0	11,000,000	0	12,000,000
CLARK	8639	-0	EXTEND FULTON ROAD. (BY COUNTY)(10CCN)	PL					
				DN					
				RW					
				UT					
				CN	SPP	1,410,000			
			Project Cost:			1,410,000	0	0	0
CLARK	8952	US-60	RECONSTRUCT US 60 FOR SAFETY IMPROVEMENTS FROM I-64 IN CLARK COUNTY (MP 14.210) TO 500 FEET WEST OF SEWELL SHOP ROAD. (MP 17.032)	PL					
				DN	SPP		2,000,000		
				RW	SPP				6,000,000
				UT	SPP				10,500,000
				CN	SPP				36,500,000
			Project Cost:			0	2,000,000	0	53,000,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CLARK	20004	I-64	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 89.48 TO MILEPOINT 94.7	PL DN RW UT CN	PM		630,000		
				Project Cost:		0	6,930,000	0	0
CLARK	20005	I-64	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 94.65 TO MILEPOINT 98.1	PL DN RW UT CN	PM		525,000		
				Project Cost:		0	5,775,000	0	0
CLARK	20007	KY-9000	ADDRESS PAVEMENT CONDITION OF BERT T. COMBS MOUNTAIN PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 9.45 (5.311 NON-CARDINAL) TO MILEPOINT 11.913	PL DN RW UT CN	PM	530,000			
				Project Cost:		5,300,000	0	0	0
Total for CLARK county				PL DN RW UT CN		530,000	3,155,000		6,000,000
				Total Amounts:		7,240,000	25,705,000	0	65,000,000
CLAY	8861	KY-638	IMPROVE SAFETY AND SIGHT DISTANCE ALONG KY 638 (MP 6.7 TO MP 7.1) AND ITS INTERSECTION WITH KY 3476. (14CCN)	PL DN RW UT CN	SPP	1,840,000			
				Project Cost:		1,840,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
CLAY	8864	CR-1286	IMPROVE GEOMETRICS ALONG URBAN CREEK ROAD (CR 1286) AND, INCLUDING INTERSECTIONS AT HAL ROGERS PARKWAY AND KY 687. (14CCN)	PL DN RW UT CN	SPP	6,100,000			
			Project Cost:			6,100,000	0	0	0
CLAY	8910	HR-9006	UPGRADE ROUTE FROM SOMERSET TO HAZARD TO INTERSTATE STANDARDS: 4 LANE FROM CLAY/LAUREL LINE TO MANCHESTER (JUST PAST EXIT 20 AT BRIDGE OVER KY 80/US 421), MP 10.593 TO MP 21.498 (SEGMENT 7)	PL DN RW UT CN	SPP SPP SPP SPP	1,000,000	15,000,000	11,000,000	98,000,000
			Project Cost:			1,000,000	15,000,000	11,000,000	98,000,000
CLAY	8911	HR-9006	UPGRADE ROUTE FROM SOMERSET TO HAZARD TO INTERSTATE STANDARDS: 4 LANE FROM MANCHESTER TO CLAY/LESLIE LINE; MP 21.498 TO MP 35.929 (SEGMENT 8)	PL DN RW UT CN	SPP SPP SPP SPP	1,000,000	18,000,000	13,000,000	129,900,000
			Project Cost:			1,000,000	18,000,000	13,000,000	129,900,000
CLAY	20001	HR-9006	ADDRESS PAVEMENT CONDITION OF HAL ROGERS DANIEL BOONE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 13.93 TO MILEPOINT 15.958	PL DN RW UT CN	PM		80,000		
			Project Cost:			0	880,000	0	0
CLAY	20002	HR-9006	ADDRESS PAVEMENT CONDITION OF HAL ROGERS DANIEL BOONE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 15.958 TO MILEPOINT 19.527	PL DN RW UT CN	PM			150,000	
			Project Cost:			0	0	1,650,000	

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
CLAY	20006	HR-9006	ADDRESS PAVEMENT CONDITION OF HAL ROGERS DANIEL BOONE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 35.08 TO MILEPOINT 39	PL DN RW UT CN	PM PM		150,000 1,500,000		
Project Cost:						0	1,650,000	0	0
Total for CLAY county				PL DN RW UT CN		2,000,000	230,000 33,000,000	150,000 24,000,000	
Total Amounts:						7,940,000 9,940,000	2,300,000 35,530,000	1,500,000 25,650,000	227,900,000 227,900,000
CLINTON	8601.26	US-127	RELOCATE US-127 FROM NORTH OF THE KY-3063 AND OLD US-127 INTERSECTION, AND EXTENDING NORTHERLY TO EAST OF KY-1730 AND MANTOWN INTERSECTION. (SEE 8-108 & 8-115 FOR PE&ENV)(12CCR)(14CCR)	PL DN RW UT CN	NH			10,060,000	
Project Cost:						0	0	10,060,000	0
CLINTON	8601.28	US-127	RELOCATE US-127 FROM NORTH OF THE KY-3063 AND OLD US-127 INTERSECTION, AND EXTENDING NORTHERLY TO EAST OF KY-1730 AND MANTOWN INTERSECTION. (SEE 8-108 & 8-115 FOR PE&ENV)(12CCR)(14CCR)	PL DN RW UT CN	NH				11,070,000
Project Cost:						0	0	0	11,070,000
CLINTON	8601.3	US-127	RELOCATION OF US-127 FROM EAST OF THE AARON RIDGE RD AND OLD US-127 INTERSECTION, EXTENDING NORTHERLY TO NORTH OF THE KY-3063 AND OLD US-127 INTERSECTION. (SEE 8-108 AND 8-115 FOR	PL DN RW UT CN	SPP				1,600,000
Project Cost:						0	0	0	1,600,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for CLINTON county				PL					
				DN					1,600,000
				RW					
				UT					
				CN				10,060,000	11,070,000
				Total Amounts:		<u>0</u>	<u>0</u>	<u>10,060,000</u>	<u>12,670,000</u>
CRITTENDEN	326.18	KY-91	OPERATION OF CAVE-IN-ROCK FERRY AT OHIO RIVER FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	SPP	<u>402,000</u>			
				Project Cost:		<u>402,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
CRITTENDEN	326.19	KY-91	OPERATION OF CAVE-IN-ROCK FERRY AT OHIO RIVER FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	SPP		<u>402,000</u>		
				Project Cost:		<u>0</u>	<u>402,000</u>	<u>0</u>	<u>0</u>
CRITTENDEN	326.2	KY-91	OPERATION OF CAVE-IN-ROCK FERRY AT OHIO RIVER FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	SPP			<u>402,000</u>	
				Project Cost:		<u>0</u>	<u>0</u>	<u>402,000</u>	<u>0</u>
CRITTENDEN	326.21	KY-91	OPERATION OF CAVE-IN-ROCK FERRY AT OHIO RIVER FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	SPP				<u>402,000</u>
				Project Cost:		<u>0</u>	<u>0</u>	<u>0</u>	<u>402,000</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for CRITTENDEN county				PL					
				DN					
				RW					
				UT					
				CN		402,000	402,000	402,000	402,000
				Total Amounts:		402,000	402,000	402,000	402,000
DAVIESS	8300	KY-54	IMPROVE KY-54 FROM WEST OF THE US-60 BYPASS TO CR-1021 (JACK HINTON ROAD). (06CCN)(10CCR)(12CCR)(14CCR)(16CCR)	PL					
				DN					
				RW					
				UT	SPP		5,750,000		
				CN	SPP				34,000,000
				Project Cost:		0	5,750,000	0	34,000,000
DAVIESS	8300.01	KY-54	IMPROVE KY-54 FROM WEST OF THE US-60 BYPASS TO CR-1021 (JACK HINTON ROAD). (06CCN)(10CCR)(12CCR)(14CCR)(16CCR)	PL					
				DN					
				RW	SPP	4,520,000			
				UT	SPP			13,420,000	
				CN					
				Project Cost:		4,520,000	0	13,420,000	0
DAVIESS	8854	KY-3143	IMPROVE KY-3143 FROM KY-3335 TO KY 54. (14CCN)	PL					
				DN	STP	680,000			
				RW	STP				2,730,000
				UT	STP				3,380,000
				CN					
				Project Cost:		680,000	0	0	6,110,000
DAVIESS	20017	KY-81	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM		250,000		
				RW					
				UT					
				CN	PM		2,500,000		
				Project Cost:		0	2,750,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
DAVISS	20018	KY-331	ADDRESS PAVEMENT CONDITION OF PCC & AC PAVEMENT	PL					
				DN	PM	50,000			
				RW					
				UT					
				CN	PM	500,000			
			Project Cost:			550,000	0	0	0
DAVISS	20047	US-60	ADDRESS PAVEMENT CONDITION ON US-60 FROM MILEPOINT 23.77 TO MILEPOINT 27.54	PL					
				DN					
				RW					
				UT					
				CN	PM		1,609,000		
			Project Cost:			0	1,609,000	0	0
Total for DAVIESS county				PL					
				DN		730,000	250,000		
				RW		4,520,000			2,730,000
				UT			5,750,000	13,420,000	3,380,000
				CN		500,000	4,109,000		34,000,000
			Total Amounts:			5,750,000	10,109,000	13,420,000	40,110,000
EDMONSON	7030.1	KY-259	RECONSTRUCT KY-70/KY-259 FROM 0.36 MILE NORTH GREEN RIVER BRIDGE AT BROWNSVILLE TO 0.42 MILE NORTH OF THE KY-70/KY-259 INTERSECTION.(06CCR)(2004BOPC)(12CCR)(14CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	5,480,000			
			Project Cost:			5,480,000	0	0	0
EDMONSON	20012	I-65	ADDRESS PAVEMENT CONDITION OF I-065 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 43.6 TO MILEPOINT 45.935.	PL					
				DN	PM				100,000
				RW					
				UT					
				CN	PM				1,000,000
			Project Cost:			0	0	0	1,100,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
EDMONSON	20022	US-31	ADDRESS PAVEMENT CONDITION ON US-31W FROM MILEPOINT 0.00 TO MILEPOINT 8.00	PL DN RW UT CN	PM		1,301,000		
Project Cost:						0	1,301,000	0	0
Total for EDMONSON county				PL DN RW UT CN		5,480,000	1,301,000		1,000,000
Total Amounts:						5,480,000	1,301,000	0	1,100,000
ELLIOTT	192.01	KY-32	IMPROVE KY-32 FROM WEST OF STEGALL COLD SPRING ROAD TO KY-7 NEAR NEWFOUNDLAND. (PRIORITY SECTION I)(06CCR) (08CCR) (10CCR)(12CCR)(14CCR)(16CCR)	PL DN RW UT CN	STP	3,900,000	5,000,000	15,500,000	
Project Cost:						3,900,000	5,000,000	15,500,000	0
ELLIOTT	192.02	KY-32	RECONSTRUCT KY-32 FROM 0.408 MILES WEST OF STEGALL COLD SPRING ROAD TO KY-7 NEAR NEWFOUNDLAND. (PRIORITY SECTION I)	PL DN RW UT CN	STP	3,820,000	15,500,000		
Project Cost:						3,820,000	15,500,000	0	0
ELLIOTT	192.03	KY-32	RECONSTRUCT KY-32 FROM 0.408 MILES WEST OF STEGALL COLD SPRING ROAD TO KY-7 NEAR NEWFOUNDLAND. (PRIORITY SECTION I)	PL DN RW UT CN	STP			15,500,000	
Project Cost:						0	0	15,500,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ELLIOTT	228	KY-7	IMPROVE KY-7 FROM SOUTH CITY LIMITS OF SANDY HOOK TOWARD WRIGLEY. (12CCR) (16CCR)	PL					
				DN	STP	2,890,000			
				RW	STP		6,620,000		
				UT	STP			6,490,000	
				CN	STP				15,420,000
				Project Cost:		2,890,000	6,620,000	6,490,000	15,420,000
ELLIOTT	8802	KY-32	KY-32 FROM 9.2 MILE MARKER TO 10.2 MILE MARKER WIDENING. (14CCN)	PL					
				DN	STP	220,000			
				RW	STP		480,000		
				UT	STP			320,000	
				CN	STP				9,340,000
				Project Cost:		220,000	480,000	320,000	9,340,000
Total for ELLIOTT county				PL					
				DN		3,110,000			
				RW		7,720,000	7,100,000		
				UT			5,000,000	6,810,000	
				CN			15,500,000	31,000,000	24,760,000
				Total Amounts:		10,830,000	27,600,000	37,810,000	24,760,000
ESTILL	205	KY-82	IMPROVE LEVEL OF SERVICE, SAFETY, AND CONNECTIVITY ON KY-82 FROM KY-89 IN ESTILL CO. TO NEW CONSTRUCTION LOCATED NORTH OF HUDSON MILL ROAD IN ESTILL COUNTY.	PL					
				DN	STP			1,500,000	
				RW					
				UT					
				CN					
				Project Cost:		0	0	1,500,000	0
ESTILL	206	KY-2459	IMPROVE SAFETY ON KY-2459 (CARHARTT AVE.) FROM KY-89 TO THE RAILROAD BRIDGE.	PL					
				DN					
				RW	STP	250,000			
				UT	STP	250,000			
				CN					
				Project Cost:		500,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ESTILL	207	KY-89	IMPROVE GEOMETRICS ON KY-89 IN ESTILL COUNTY FROM KY-1886 TO THE ESTILL/CLARK COUNTY LINE.	PL DN RW UT CN	STP	1,200,000			
Project Cost:						<u>1,200,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total for ESTILL county				PL DN RW UT CN		1,200,000 250,000 250,000		1,500,000	
Total Amounts:						<u>1,700,000</u>	<u>0</u>	<u>1,500,000</u>	<u>0</u>
FAYETTE	113.02	KY-4	IMPROVE NEW CIRCLE ROAD FROM LEESTOWN ROAD TO NEAR GEORGETOWN ROAD. (12CCR) (14CCR)	PL DN RW UT CN	NH NH NH	1,300,000 1,500,000			
Project Cost:						<u>2,800,000</u>	<u>0</u>	<u>0</u>	<u>11,780,000</u> <u>11,780,000</u>
FAYETTE	113.03	KY-4	IMPROVE NEW CIRCLE ROAD FROM LEESTOWN ROAD TO NEAR GEORGETOWN ROAD. (12CCR) (14CCR)	PL DN RW UT CN	NH	1,500,000			
Project Cost:						<u>1,500,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
FAYETTE	227	-0	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR LEXINGTON URBANIZED AREA AND SUBJECT TO MPO CONTROL. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLX				
Project Cost:						<u>0</u>	<u>0</u>	<u>0</u>	<u>49,200,000</u> <u>49,200,000</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
FAYETTE	227.15	-0	DEDICATED FEDERAL-AID STP FUNDS	PL					
			EARMARKED FOR LEXINGTON URBANIZED AREA	DN					
			AND SUBJECT TO MPO CONTROL FOR FY 2021.	RW					
			(FUNDING SUBJECT TO FISCAL CONSTRAINT	UT					
			PENDING MPO TIP)	CN	SLX	8,200,000			
			Project Cost:			8,200,000	0	0	0
FAYETTE	227.16	-0	DEDICATED FEDERAL-AID STP FUNDS	PL					
			EARMARKED FOR LEXINGTON URBANIZED AREA	DN					
			AND SUBJECT TO MPO CONTROL FOR FY 2022.	RW					
			(FUNDING SUBJECT TO FISCAL CONSTRAINT	UT					
			PENDING MPO TIP)	CN	SLX		8,200,000		
			Project Cost:			0	8,200,000	0	0
FAYETTE	227.17	-0	VARIOUS 'SLX' CONTINUING PROGRAM	PL					
			PROJECTS (RIDESHARE/MOBILITY, AIR QUALITY	DN					
			PLANNING, TRAFFIC SIGNAL) FOR FY 2021.	RW					
			(LOCAL MATCH) (ALL WORK BY LFUCG)	UT					
			(FUNDING SUBJECT TO FISCAL CONSTRAINT	CN	SLX	756,000			
			Project Cost:			756,000	0	0	0
FAYETTE	227.18	-0	VARIOUS 'SLX' CONTINUING PROGRAM	PL					
			PROJECTS (RIDESHARE/MOBILITY, AIR QUALITY	DN					
			PLANNING, TRAFFIC SIGNAL) FOR FY 2022.	RW					
			(LOCAL MATCH) (ALL WORK BY LFUCG)	UT					
			(FUNDING SUBJECT TO FISCAL CONSTRAINT	CN	SLX		756,000		
			Project Cost:			0	756,000	0	0
FAYETTE	227.19	-0	VARIOUS 'SLX' CONTINUING PROGRAM	PL					
			PROJECTS (RIDESHARE/MOBILITY, AIR QUALITY	DN					
			PLANNING, TRAFFIC SIGNAL) FOR FY 2023.	RW					
			(LOCAL MATCH) (ALL WORK BY LFUCG)	UT					
			(FUNDING SUBJECT TO FISCAL CONSTRAINT	CN	SLX			756,000	
			Project Cost:			0	0	756,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
FAYETTE	227.2	-0	VARIOUS 'SLX' CONTINUING PROGRAM PROJECTS (RIDESHARE/MOBILITY, AIR QUALITY PLANNING, TRAFFIC SIGNAL) FOR FY 2024. (LOCAL MATCH) (ALL WORK BY LFUCG) (FUNDING SUBJECT TO FISCAL CONSTRAINT	PL DN RW UT CN	SLX				756,000
				Project Cost:		0	0	0	756,000
FAYETTE	227.21	-0	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR LEXINGTON URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2023. (FUNDING SUBJECT TO FISCAL CONTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLX			8,200,000	
				Project Cost:		0	0	8,200,000	0
FAYETTE	227.22	-0	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR LEXINGTON URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2024. (FUNDING SUBJECT TO FISCAL CONTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLX				8,200,000
				Project Cost:		0	0	0	8,200,000
FAYETTE	252	KY-922	IMPROVE NEWTOWN PIKE FROM KY-4 TO I-75. (16CCR)	PL DN RW UT CN	NH	4,950,000			
				Project Cost:		4,950,000	0	0	0
FAYETTE	252.02	KY-922	IMPROVE NEWTOWN PIKE FROM KY-4 TO I-75. (16CCR)	PL DN RW UT CN	NH	10,050,000			
				Project Cost:		10,050,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
FAYETTE	357.18	KY-169	OPERATION OF VALLEY VIEW FERRY AT KY RIVER FOR FY 2021.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	180,000			
			Project Cost:			180,000	0	0	0
FAYETTE	357.19	KY-169	OPERATION OF VALLEY VIEW FERRY AT KY RIVER FOR FY 2022.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP		180,000		
			Project Cost:			0	180,000	0	0
FAYETTE	357.2	KY-169	OPERATION OF VALLEY VIEW FERRY AT KY RIVER FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	SPP			180,000	
			Project Cost:			0	0	180,000	0
FAYETTE	357.21	KY-169	OPERATION OF VALLEY VIEW FERRY AT KY RIVER FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	SPP				180,000
			Project Cost:			0	0	0	180,000
FAYETTE	366.02	KY-4	WIDEN NEW CIRCLE ROAD IN LEXINGTON FROM GEORGETOWN ROAD TO BOARDWALK AVENUE INCLUDING INTERCHANGE RECONSTRUCTION AT NEWTOWN PIKE. (ADDITIONAL C-FUNDS FOR 7-366.00)	PL					
				DN					
				RW					
				UT					
				CN	NH	22,300,000			
			Project Cost:			22,300,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
FAYETTE	412	US-27	REPLACE L&N RAILROAD BRIDGE OVERPASS (MP 8.378), IMPROVE DRAINAGE AND TYPICAL SECTION ON US 27 (NORTH BROADWAY) (12CCR)(14CCR)	PL DN RW UT CN	SPP SPP	1,550,000		12,040,000	
			Project Cost:			1,550,000	0	12,040,000	0
FAYETTE	438	KY-4	REDUCE CONGESTION ON KY-4 (NEW CIRCLE RD) FROM TRADE CENTER DR TO WOODHILL DR.	PL DN RW UT CN	NH				2,000,000
			Project Cost:			0	0	0	2,000,000
FAYETTE	439	KY-4	NEW CIRCLE RD: IMPROVE SAFETY AND REDUCE CONGESTION FROM US-68 (HARRODSBURG RD) TO US-60 (VERSAILLES RD). SEE SEGMENTS 2A & 2B IN AUGUST, 1998 ADVANCE PLANNING STUDY.	PL DN RW UT CN	NH				2,200,000
			Project Cost:			0	0	0	2,200,000
FAYETTE	8340	US-60	SCOPING STUDY TO RECONSTRUCT/WIDEN US-60/WINCHESTER ROAD TO FOUR LANES. (06CCN)(12CCR)	PL DN RW UT CN	SPP	280,000			
			Project Cost:			280,000	0	0	0
FAYETTE	8801.1	KY-4	SOUND BARRIERS ALONG OUTER LOOP OF NEW CIRCLE ROAD BETWEEN TATES CREEK ROAD AND NICHOLASVILLE ROAD. (14CCN)	PL DN RW UT CN	SPP	2,300,000			
			Project Cost:			2,300,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
FAYETTE	8902	KY-1927	IMPROVE LIBERTY ROAD FROM GRAFTONS MILL LANE TO NEW CIRCLE ROAD AND IMPROVE INTERSECTION WITH NEW CIRCLE ROAD. (16CCN)	PL					
				DN					
				RW	STP	1,000,000			
				UT	STP		1,730,000		
				CN	STP				6,190,000
			Project Cost:			1,000,000	1,730,000	0	6,190,000
FAYETTE	8902.01	KY-1927	IMPROVE LIBERTY ROAD FROM GRAFTONS MILL LANE TO NEW CIRCLE ROAD AND IMPROVE INTERSECTION WITH NEW CIRCLE ROAD. (16CCN)	PL					
				DN					
				RW	STP	3,300,000			
				UT	STP			2,600,000	
				CN					
			Project Cost:			3,300,000	0	2,600,000	0
FAYETTE	8909	I-75	REDUCE CONGESTION ON I-64/I-75 FROM THE C&O RAILROAD BRIDGE TO THE NORTHERN SPLIT (SECTION 1). (16CCN)	PL					
				DN	NH	3,000,000			
				RW	NH	1,000,000			
				UT	NH	1,000,000			
				CN	NH		25,000,000		
			Project Cost:			5,000,000	25,000,000	0	0
FAYETTE	20008	I-64	ADDRESS PAVEMENT CONDITION OF I-064 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 71 TO MILEPOINT 73.94	PL					
				DN	PM		390,000		
				RW					
				UT					
				CN	PM		3,900,000		
			Project Cost:			0	4,290,000	0	0
FAYETTE	20010	I-64	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-064 BOTH DIRECTION(S) FROM MILEPOINT 81.037 TO MILEPOINT 82.19	PL					
				DN	PM			175,000	
				RW					
				UT					
				CN	PM			1,750,000	
			Project Cost:			0	0	1,925,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
FAYETTE	20011	I-64	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 82.19 TO MILEPOINT 89.48	PL DN RW UT CN	PM	870,000			
				Project Cost:		8,700,000			
						9,570,000	0	0	0
FAYETTE	20013	I-75	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 107.453 TO MILEPOINT 110.213	PL DN RW UT CN	PM	330,000			
				Project Cost:		3,300,000			
						3,630,000	0	0	0
FAYETTE	20014	I-75	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 110.264 TO MILEPOINT 111.82	PL DN RW UT CN	PM		190,000		
				Project Cost:			1,900,000		
						0	2,090,000	0	0
FAYETTE	20025	US-25	ADDRESS PAVEMENT CONDITION ON US-25 FROM MILEPOINT 19.10 TO MILEPOINT 22.29	PL DN RW UT CN	PM				
				Project Cost:			1,440,000		
						0	1,440,000	0	0
FAYETTE	20026	KY-1974	ADDRESS PAVEMENT CONDITION ON KY-1974 FROM MILEPOINT 7.50 TO MILEPOINT 11.55	PL DN RW UT CN	PM				
				Project Cost:				2,748,000	
						0	0	2,748,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
Total for FAYETTE county				PL		280,000			
				DN		4,200,000	580,000	175,000	4,200,000
				RW		6,600,000			
				UT		5,550,000	1,730,000	2,600,000	
				CN		60,736,000	41,376,000	25,674,000	76,306,000
				Total Amounts:		77,366,000	43,686,000	28,449,000	80,506,000
FLEMING	80051	US-32	IMPROVE SAFETY AND SIGHT DISTANCE ON KY-32 BEGINNING AT 0.4 MILES WEST OF FLEMING/ROWAN CO LINE AND ENDING 0.3 MILES EAST OF THE LINE.	PL					
				DN	SPP	800,000			
				RW	SPP		1,000,000		
				UT	SPP		750,000		
				CN	SPP			7,000,000	
				Project Cost:		800,000	0	1,750,000	7,000,000
Total for FLEMING county				PL					
				DN		800,000			
				RW				1,000,000	
				UT				750,000	
				CN					7,000,000
				Total Amounts:		800,000	0	1,750,000	7,000,000
FLOYD	191	US-23	IMPROVE SAFETY AND ACCESS ON US-23 BETWEEN KY-80 AND KY-3384.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	NH	1,880,000			
				Project Cost:		1,880,000	0	0	0
FLOYD	195	KY-979	SPOT IMPROVEMENTS FROM BRANHAM'S CREEK TO JOHN M. STUMBO SCHOOL.(12CCR) (16CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP		5,540,000		
				Project Cost:		0	5,540,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
FLOYD	195.01	KY-979	SPOT IMPROVEMENTS FROM BRANHAM'S CREEK TO JOHN M. STUMBO SCHOOL.(12CCR)(16CCR)	PL DN RW UT CN	SPP			2,370,000	
			Project Cost:			0	0	2,370,000	0
FLOYD	301.2	KY-680	IMPROVE THE MINNIE-HAROLD CONNECTOR FROM LITTLE MUD CREEK RD TO THE MOUTH OF TACKETT CREEK (ALT.3B SEC.2)(08CCN)(10CCR)(12CCR)(14CCR)	PL DN RW UT CN	SPP	13,310,000			
			Project Cost:			13,310,000	0	0	0
FLOYD	301.22	KY-680	IMPROVE THE MINNIE-HAROLD CONNECTOR FROM LITTLE MUD CREEK RD TO THE MOUTH OF TACKETT CREEK (ALT.3B SEC.2)(08CCN)(10CCR)(12CCR)(14CCR)	PL DN RW UT CN	SPP		19,970,000		
			Project Cost:			0	19,970,000	0	0
FLOYD	8703	KY-80	IMPROVE ACCESS TO KY 80 AT GARRETT EASTBOUND AND ELIMINATE NECESSITY FOR CROSSING WESTBOUND LANES TO MERGE INTO EASTBOUND LANES. MP 1.527 TO MP 1.827 (12CCN)	PL DN RW UT CN	SPP	500,000			
			Project Cost:			500,000	3,000,000	0	0
FLOYD	20004	US-23	ADDRESS PAVEMENT CONDITION ON US-23 FROM MILEPOINT 10.18 TO MILEPOINT 15.79	PL DN RW UT CN	PM			2,557,000	
			Project Cost:			0	0	2,557,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for FLOYD county				PL					
				DN					
				RW		500,000			
				UT					
				CN		15,190,000	28,510,000	4,927,000	
				Total Amounts:		15,690,000	28,510,000	4,927,000	0
				PL					
				DN	NH		4,300,000		
				RW					
				UT					
				CN					
				Project Cost:		0	4,300,000	0	0
				PL					
				DN					
				RW	NH		120,000		
				UT	NH		120,000		
				CN	NH				20,330,000
				Project Cost:		0	240,000	0	20,330,000
				PL					
				DN	PM	200,000			
				RW					
				UT					
				CN	PM	2,000,000			
				Project Cost:		2,200,000	0	0	0
				PL					
				DN					
				RW					
				UT					
				CN	PM		1,228,000		
				Project Cost:		0	1,228,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
Total for FRANKLIN county				PL					
				DN		200,000	4,300,000		
				RW			120,000		
				UT			120,000		
				CN		2,000,000	1,228,000		20,330,000
				Total Amounts:		2,200,000	5,768,000	0	20,330,000
FULTON	25	JC-9003	IMPROVE THE PURCHASE PARKWAY AT THE KENTUCKY/TENNESSEE LINE TO SOUTHWEST OF THE US-51 INTERCHANGE.(I-69 CORRIDOR IMPROVEMENT)(2012BOP)	PL					
				DN					
				RW	NH				2,500,000
				UT					
				CN					
				Project Cost:		0	0	0	2,500,000
FULTON	26	JC-9003	IMPROVE THE PURCHASE PARKWAY FROM SOUTHWEST OF THE US-51 INTERCHANGE TO CARDINAL ROAD NEAR MAYFIELD INCLUDING THE KY-339 INTERCHANGE IN WINGO, KY. (I-69 CORRIDOR IMPROVEMENT) (2012BOP)	PL					
				DN					
				RW	NH			1,000,000	
				UT	NH			500,000	
				CN					
				Project Cost:		0	0	1,500,000	0
FULTON	320.18	KY-1354	OPERATION OF HICKMAN FERRY AT MISSISSIPPI RIVER FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	SPP	126,000			
				Project Cost:		126,000	0	0	0
FULTON	320.19	KY-1354	OPERATION OF HICKMAN FERRY AT MISSISSIPPI RIVER FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	SPP		126,000		
				Project Cost:		0	126,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
FULTON	320.2	KY-1354	OPERATION OF HICKMAN FERRY AT MISSISSIPPI RIVER FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	SPP			126,000	
			Project Cost:			0	0	126,000	0
FULTON	320.21	KY-1354	OPERATION OF HICKMAN FERRY AT MISSISSIPPI RIVER FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	SPP				126,000
			Project Cost:			0	0	0	126,000
FULTON	8853	KY-1099	SAFETY IMPROVEMENT AT INTERSECTION OF KY-1099 AND KY-125. (14CCN)	PL					
				DN					
				RW	SPP	500,000			
				UT	SPP	780,000			
				CN	SPP			1,460,000	
			Project Cost:			1,280,000	0	1,460,000	0
Total for FULTON county				PL					
				DN					
				RW		500,000		1,000,000	2,500,000
				UT		780,000		500,000	
				CN		126,000	126,000	1,586,000	126,000
				Total Amounts:		1,406,000	126,000	3,086,000	2,626,000
GALLATIN	458	-0	STUDY NEW CORRIDOR BETWEEN I-71 IN GALLATIN COUNTY AND AA HIGHWAY IN CAMPBELL COUNTY.	PL	STP	2,000,000			
				DN					
				RW					
				UT					
				CN					
			Project Cost:			2,000,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
GALLATIN	8910	I-71	IMPROVE GEOMETRICS ON I-71 FROM US-127 TO MP 64. (16CCN).	PL					
				DN	NH	2,200,000			
				RW	NH		1,500,000		
				UT	NH		500,000		
				CN					
			Project Cost:			<u>2,200,000</u>	<u>2,000,000</u>	<u>0</u>	<u>0</u>
GALLATIN	20021	I-71	ADDRESS PAVEMENT CONDITION OF I-071 BOTH DIRECTION(S) FROM MILEPOINT 53.433 TO MILEPOINT 56.763	PL					
				DN	PM				500,000
				RW					
				UT					
				CN	PM				5,000,000
			Project Cost:			<u>0</u>	<u>0</u>	<u>0</u>	<u>5,500,000</u>
GALLATIN	20022	I-71	ADDRESS PAVEMENT CONDITION OF I-071 BOTH DIRECTION(S) FROM MILEPOINT 59.673 TO MILEPOINT 69.89	PL					
				DN	PM		1,025,000		
				RW					
				UT					
				CN	PM		10,250,000		
			Project Cost:			<u>0</u>	<u>11,275,000</u>	<u>0</u>	<u>0</u>
Total for GALLATIN county				PL		2,000,000			
				DN		2,200,000	1,025,000		500,000
				RW			1,500,000		
				UT			500,000		
				CN			10,250,000		5,000,000
				Total Amounts:		<u>4,200,000</u>	<u>13,275,000</u>	<u>0</u>	<u>5,500,000</u>
GARRARD	196.3	US-27	IMPROVE US-27 FROM WEST LANCASTER BYPASS TO KY-34. (2006BOPC) (16CCN)	PL					
				DN					
				RW					
				UT	SPP	9,000,000			
				CN	SPP		38,000,000		
			Project Cost:			<u>9,000,000</u>	<u>38,000,000</u>	<u>0</u>	<u>0</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
Total for GARRARD county				PL					
				DN					
				RW					
				UT		9,000,000			
				CN			38,000,000		
				Total Amounts:		9,000,000	38,000,000	0	0
GRANT	20024	I-75	ADDRESS PAVEMENT CONDITION OF I-075 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 145.5 TO MILEPOINT 152.122	PL					
				DN	PM		275,000		
				RW					
				UT					
				CN	PM		2,750,000		
				Project Cost:		0	3,025,000	0	0
GRANT	20028	I-75	ADDRESS PAVEMENT CONDITION OF I-075 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 164.4 TO MILEPOINT 166.263	PL					
				DN	PM			125,000	
				RW					
				UT					
				CN	PM			1,250,000	
				Project Cost:		0	0	1,375,000	0
GRANT	20029	KY-22	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	47,500			
				RW					
				UT					
				CN	PM	475,000			
				Project Cost:		522,500	0	0	0
Total for GRANT county				PL					
				DN		47,500	275,000	125,000	
				RW					
				UT					
				CN		475,000	2,750,000	1,250,000	
				Total Amounts:		522,500	3,025,000	1,375,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
GRAVES	181.51	KY-80	MURRAY-MAYFIELD RD; EXTEND MAYFIELD SOUTHERN BYPASS FROM KY-303 SOUTH OF MAYFIELD, NORTHWEST TO JULIAN M. CARROLL PARKWAY (PURCHASE PARKWAY). (EXTENSION OF 1-181.30)(00CCR)(12CCR)	PL DN RW UT CN	SPP	7,280,000			
Project Cost:						7,280,000	0	0	0
GRAVES	1157	CR-1088	ADDRESS DEFICIENCIES OF BRIDGE OVER PANTHER CREEK ON MCKENDREE CHURCH RD (CR 1088) 0.3 MI E OF KY 301 042C00010N	PL DN RW UT CN	BR		553,000		
Project Cost:						0	553,000	0	0
GRAVES	10002	CR-1214	ADDRESS DEFICIENCIES OF MARTIN ROAD BRIDGE OVER BRANCH-OBION CREEK. (042C00250N)	PL DN RW UT CN	BR	423,500			
Project Cost:						423,500	0	0	0
GRAVES	20004	JC-9003	ADDRESS PAVEMENT CONDITION OF JULIAN M. CARROLL PURCHASE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 22 TO MILEPOINT 34.49	PL DN RW UT CN	PM		1,000,000		
Project Cost:						0	2,000,000	0	0
GRAVES	20028	KY-94	ADDRESS PAVEMENT CONDITION ON KY-94 FROM MILEPOINT 10.49 TO MILEPOINT 15.78	PL DN RW UT CN	PM		825,000		
Project Cost:						0	825,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
GRAVES	20029	KY-339	ADDRESS PAVEMENT CONDITION ON KY-339 FROM MILEPOINT 6.04 TO MILEPOINT 13.40	PL					
				DN					
				RW					
				UT					
				CN	PM			1,274,000	
			Project Cost:			0	0	1,274,000	0
Total for GRAVES county				PL					
				DN			1,000,000		
				RW					
				UT					
				CN		7,703,500	2,378,000	1,274,000	
			Total Amounts:			7,703,500	3,378,000	1,274,000	0
GRAYSON	8502.11	US-62	IMPROVE US 62 FROM LEITCHFIELD BYPASS (KY3155) TO JUST EAST OF BEEHIVE CURVE. CONSTRUCTION SEGMENT 1.	PL					
				DN					
				RW					
				UT					
				CN	STP	2,000,000			
			Project Cost:			2,000,000	0	0	0
GRAYSON	8502.2	US-62	IMPROVE US 62 FROM JUST EAST OF BEEHIVE CURVE TO KY224. CONSTRUCTION SEGMENT 2.	PL					
				DN					
				RW					
				UT					
				CN	STP				5,000,000
			Project Cost:			0	0	0	5,000,000
GRAYSON	8954	KY-3155	EXTEND THE WILLIAM THOMASON BYWAY (KY 3155) FROM THE SOUTHERN INTERSECTION AT KY 259 WESTERLY TO KY 54	PL					
				DN					
				RW	SPP	2,500,000			
				UT	SPP	1,500,000			
				CN	SPP		14,500,000		
			Project Cost:			4,000,000	14,500,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
GRAYSON	20001	WK-9001	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY CARDINAL DIRECTION(S) FROM MILEPOINT 111.25 TO MILEPOINT 112.48	PL DN RW UT CN	PM		50,000		
							500,000		
				Project Cost:		0	550,000	0	0
GRAYSON	20002	WK-9001	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 112.4 TO MILEPOINT 114.8	PL DN RW UT CN	PM	190,000			
						1,900,000			
				Project Cost:		2,090,000	0	0	0
GRAYSON	20003	WK-9001	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY CARDINAL DIRECTION(S) FROM MILEPOINT 114.8 TO MILEPOINT 116.95	PL DN RW UT CN	PM			100,000	
								1,000,000	
				Project Cost:		0	0	1,100,000	0
GRAYSON	20027	US-62	ADDRESS PAVEMENT CONDITION ON US-62 FROM MILEPOINT 14.49 TO MILEPOINT 20.79	PL DN RW UT CN	PM				999,000
				Project Cost:		0	0	0	999,000
Total for GRAYSON county				PL					
				DN		190,000	50,000	100,000	
				RW		2,500,000			
				UT		1,500,000			
				CN		3,900,000	15,000,000	1,000,000	5,999,000
				Total Amounts:		8,090,000	15,050,000	1,100,000	5,999,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
GREEN	397.1	US-68	US68 IMPROVEMENTS FROM T DAVIS RD TO CLOVER LICK CREEK (MP 6.425 TO 11.744) AS PER 3-203 SCOPING STUDY (SPOT IMPROVEMENTS #11, 12 & 13). (DESIGN UNDER 4-397)(2014BOP)	PL DN RW UT CN	SPP SPP SPP	2,000,000	2,000,000	9,000,000	
Project Cost:						2,000,000	2,000,000	9,000,000	0
GREEN	398	-0	CONSTRUCT NEW CONNECTOR FROM VAUGHN CURVE ON US-68 BYPASS EAST OF GREENSBURG CROSSING KY-61 AND KY-417 AND CONNECTING WITH KY-3535 NORTH OF GREENSBURG.(SEE ITEM #8-8711)(12CCN)	PL DN RW UT CN	SPP SPP SPP	2,000,000		3,000,000	2,000,000
Project Cost:						2,000,000	0	3,000,000	2,000,000
GREEN	8712	KY-61	IMPROVE SAFETY AND MOBILITY ON KY-61 FROM PITMAN CREEK BRIDGE TO DOC WARD RD (CR 1314). (12CCN)(14CCR)(16CCR)	PL DN RW UT CN	SPP SPP SPP		2,000,000	2,750,000	6,000,000
Project Cost:						0	2,000,000	2,750,000	6,000,000
GREEN	8853	KY-88	SPOT IMPROVEMENTS & IMPROVE EXISTING ALIGNMENT ON KY 88 FROM 0.20 MILES WEST OF AKIN NARROWS OF PITMAN RD (MP 8.996) TO KY 61 (MP 11.232). (14CCN)	PL DN RW UT CN	SPP SPP SPP SPP	500,000	2,900,000	1,000,000	3,000,000
Project Cost:						500,000	2,900,000	1,000,000	3,000,000
Total for GREEN county				PL DN RW UT CN		2,500,000 2,000,000	4,900,000 2,000,000	3,000,000 3,750,000	2,000,000 9,000,000
Total Amounts:						4,500,000	6,900,000	15,750,000	11,000,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
GREENUP	132	KY-2	RECONSTRUCT KY-2 FROM MP 13.2 TO US-23 (MP 17.2)(08CCN)(14CCR)	PL					
				DN					
				RW	SPP	6,070,000			
				UT	SPP			3,380,000	
				CN	SPP				36,000,000
			Project Cost:			6,070,000	0	3,380,000	36,000,000
GREENUP	8509	KY-207	IMPROVE KY-207 FROM THE INDUSTRIAL PARKWAY TO THE KY-693 INTERSECTION IN FLATWOODS.(08CCN)(16CCR)	PL					
				DN	STP				2,000,000
				RW					
				UT					
				CN					
			Project Cost:			0	0	0	2,000,000
Total for GREENUP county				PL					
				DN					2,000,000
				RW		6,070,000			
				UT				3,380,000	
				CN					36,000,000
			Total Amounts:			6,070,000	0	3,380,000	38,000,000
HANCOCK	226	US-60	IMPROVE THE WESTBOUND LANES OF US-60 FROM KY-1957 TO 0.2 MILE WEST OF KY-6106. (12CCR)(14CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	6,090,000			
			Project Cost:			6,090,000	0	0	0
HANCOCK	20022	US-60	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM		525,000		
				RW					
				UT					
				CN	PM		5,250,000		
			Project Cost:			0	5,775,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
Total for HANCOCK county				PL					
				DN			525,000		
				RW					
				UT					
				CN		6,090,000	5,250,000		
				Total Amounts:		6,090,000	5,775,000	0	0
HARDIN	153.01	KY-251	KY 251 IMPROVEMENTS FROM KY 3005 TO KY 434.	PL					
				DN					
				RW					
				UT					
				CN	BR2	8,700,000			
				Project Cost:		8,700,000	0	0	0
HARDIN	154	US-31	IMPROVE MOBILITY AND REDUCE CONGESTION ON US-31W FROM US-31WB TO CS-2255 (WILSON ROAD). (10CCR)(12CCR)	PL					
				DN	SPP	500,000			
				RW	SPP				1,000,000
				UT	SPP				1,000,000
				CN	SPP				9,000,000
				Project Cost:		500,000	0	0	11,000,000
HARDIN	442	US-62	IMPROVE SAFETY, MOBILITY AND GEOMETRICS ON US-62 FROM I-65 TO UPPER COLESBURG ROAD (CR-1038)	PL					
				DN	STP		1,500,000		
				RW					
				UT					
				CN					
				Project Cost:		0	1,500,000	0	0
HARDIN	8801	KY-1357	IMPROVE SAFETY, GEOMETRICS, DRAINAGE AND MAINTENANCE ISSUES ALONG KY-1357 (ST. JOHNS RD) FROM US-31W BYPASS TO KY-3005 (RING ROAD). (14CCN)	PL					
				DN					
				RW					
				UT	SPP	2,500,000			
				CN	SPP				9,000,000
				Project Cost:		2,500,000	0	0	9,000,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
HARDIN	20013	US-31	ADDRESS PAVEMENT CONDITION	PL					
				DN	PM	325,000			
				RW					
				UT					
				CN	PM	3,250,000			
			Project Cost:			3,575,000	0	0	0
HARDIN	20015	WK-9001	ADDRESS PAVEMENT CONDITION OF WENDELL	PL					
			H. FORD WESTERN KY PARKWAY BOTH	DN	PM				100,000
			DIRECTION(S) FROM MILEPOINT 119.649 TO	RW					
			MILEPOINT 120.649	UT					
				CN	PM				1,000,000
			Project Cost:			0	0	0	1,100,000
HARDIN	20016	WK-9001	ADDRESS PAVEMENT CONDITION OF WENDELL	PL					
			H. FORD WESTERN KY PARKWAY BOTH	DN	PM	920,000			
			DIRECTION(S) FROM MILEPOINT 120.93 (120.65	RW					
			NON-CARDINAL) TO MILEPOINT 132.4 (130.95	UT					
			NON-CARDINAL)	CN	PM	9,200,000			
			Project Cost:			10,120,000	0	0	0
HARDIN	20019	WK-9001	ADDRESS PAVEMENT CONDITION OF WENDELL	PL					
			H. FORD WESTERN KY PARKWAY BOTH	DN	PM				100,000
			DIRECTION(S) FROM MILEPOINT 134.923 TO	RW					
			MILEPOINT 135.923	UT					
				CN	PM				1,000,000
			Project Cost:			0	0	0	1,100,000
HARDIN	20028	US-62	ADDRESS PAVEMENT CONDITION ON US-62	PL					
			FROM MILEPOINT 9.57 TO MILEPOINT 13.77	DN					
				RW					
				UT					
				CN	PM		689,000		
			Project Cost:			0	689,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
Total for HARDIN county				PL					
				DN		1,745,000	1,500,000		200,000
				RW					1,000,000
				UT		2,500,000			1,000,000
				CN		21,150,000	689,000		20,000,000
				Total Amounts:		25,395,000	2,189,000	0	22,200,000
HARRISON	908	KY-32	IMPROVE SAFETY ON KY-32 AT THE ENTRANCE TO HARRISON MEMORIAL HOSPITAL IN CYNTHIANA.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	2,290,000			
				Project Cost:		2,290,000	0	0	0
HARRISON	1093	CR-1124	REPLACE BRIDGE ON OLD LAIR RD (CR-1124) (0.071) OVER S. FORK LICKING RIVER. (SR=14.2) 049C00035N	PL					
				DN	SPP	500,000			
				RW					
				UT					
				CN					
				Project Cost:		500,000	0	0	0
HARRISON	8707	US-62	IMPROVE US-62 FROM SALEM PIKE (CR-1005) TO APPROXIMATELY MP 12.3. (12CCN)(14CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP		2,920,000		
				Project Cost:		0	2,920,000	0	0
HARRISON	8708	US-27	RECONSTRUCT US 27 FROM MP 11.9 TO MP 12.4. (12CCN)(14CCR)	PL					
				DN					
				RW	SPP	500,000			
				UT					
				CN	SPP			5,500,000	
				Project Cost:		500,000	0	5,500,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for HARRISON county				PL					
				DN		500,000			
				RW		500,000			
				UT					
				CN		2,290,000	2,920,000	5,500,000	
				Total Amounts:		3,290,000	2,920,000	5,500,000	0
HART	441	KY-335	IMPROVE MOBILITY, CONNECTIVITY AND SAFETY BY ADDRESSING COMMERCIAL AND INDUSTRIAL TRAFFIC MOVEMENT FROM US-31W SOUTH OF KY-218 TO I-65. (16CCR)	PL					
				DN					
				RW					
				UT	NH	1,000,000			
				CN					
				Project Cost:		1,000,000	0	0	0
HART	20029	US-31	ADDRESS PAVEMENT CONDITION ON US-31E FROM MILEPOINT 13.18 TO MILEPOINT 21.58	PL					
				DN					
				RW					
				UT					
				CN	PM			964,000	
				Project Cost:		0	0	964,000	0
Total for HART county				PL					
				DN					
				RW					
				UT		1,000,000			
				CN				964,000	
				Total Amounts:		1,000,000	0	964,000	0
HENDERSON	383	CS-1372	IMPROVE SAFETY AND REDUCE CONGESTION ON CS-1372 (WATSON LANE)	PL					
				DN					
				RW					
				UT	SPP	1,400,000			
				CN	SPP		5,000,000		
				Project Cost:		1,400,000	5,000,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
HENDERSON	700.16	-0	FEDERAL 'STP' FUNDS DEDICATED TO HENDERSON FOR FY 2021. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SHN	700,000			
				Project Cost:		700,000	0	0	0
HENDERSON	700.17	-0	FEDERAL 'STP' FUNDS DEDICATED TO HENDERSON FOR FY 2022. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SHN		700,000		
				Project Cost:		0	700,000	0	0
HENDERSON	700.18	-0	FEDERAL 'STP' FUNDS DEDICATED TO HENDERSON FOR FY 2023. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SHN			700,000	
				Project Cost:		0	0	700,000	0
HENDERSON	1088.1	I-69	DEVELOP ALIGNMENT FOR I-69 HENDERSON/EVANSVILLE OHIO RIVER CROSSING (TO BE DEVELOPED IN CONCERT WITH 2-1088.00).(16CCR)(C-COST=\$1.0 BILLION; KYTC SHARE \$600 MILLION)	PL DN RW UT CN	NH NH	19,900,000	8,000,000		
				Project Cost:		19,900,000	8,000,000	0	0
HENDERSON	2091.1	US-41	ADDRESS DEFICIENCIES AND PAINTING ON US 41 BRIDGES OVER OHIO RIVER. JOINT PROJECT WITH INDIANA. (051B0002R, 051B0007L)(BSBP)	PL DN RW UT CN	BR		21,200,000		
				Project Cost:		0	21,200,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
HENDERSON	20023	I-69	ADDRESS PAVEMENT CONDITION OF I-069 BOTH DIRECTION(S) FROM MILEPOINT 142.146 TO MILEPOINT 148.09 (150.142 NON-CARDINAL)	PL DN RW UT CN	PM	640,000			
				Project Cost:		<u>6,400,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total for HENDERSON county				PL DN RW UT CN		640,000 19,900,000 1,400,000 7,100,000	8,000,000 26,900,000	700,000	
				Total Amounts:		<u>29,040,000</u>	<u>34,900,000</u>	<u>700,000</u>	<u>0</u>
HENRY	552	I-71	IMPROVE SAFETY AND REDUCE CONGESTION ON I-71 FROM KY-53 TO KY-153.	PL DN RW UT CN	NH			5,600,000	
				Project Cost:		<u>0</u>	<u>0</u>	<u>5,600,000</u>	<u>0</u>
HENRY	8300.01	KY-146	MAJOR RECONSTRUCTION OF KY-146 BETWEEN NEW CASTLE AT US-421 AND PENDLETON AT KY-153. SEGMENT 1: PENDLETON ROAD (KY-153) TO LOST CREEK (1/2 MILE EAST OF SAFETY KLEEN ENTRANCE). MILE POINT 2.1 TO	PL DN RW UT CN	SPP			6,930,000	
				Project Cost:		<u>0</u>	<u>0</u>	<u>6,930,000</u>	<u>0</u>
Total for HENRY county				PL DN RW UT CN				5,600,000 6,930,000	
				Total Amounts:		<u>0</u>	<u>0</u>	<u>12,530,000</u>	<u>0</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
HOPKINS	137.11	US-41	IMPROVE US-41A FROM INDUSTRIAL DRIVE TO YORKWOOD PLACE. (SECTION 1) (2012BOP) (16CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	5,000,000			
			Project Cost:			5,000,000	0	0	0
HOPKINS	384	KY-281	IMPROVE KY-281 FROM ISLAND PARK DRIVE TO CARRIAGE LANE (KY-2281).	PL					
				DN	STP			500,000	
				RW	STP				1,000,000
				UT	STP				1,000,000
				CN					
			Project Cost:			0	0	500,000	2,000,000
HOPKINS	804	-0	CONSTRUCTION OF THE CENTER STREET CONNECTOR ROAD BEGINNING AT CENTER STREET AND PROCEEDING TO THE CSX RAILROAD, SECTION 1, A DISTANCE 5,173 LINEAR FEET, THENCE PROCEEDING THROUGH A	PL					
				DN					
				RW					
				UT					
				CN	SPP	4,000,000			
			Project Cost:			4,000,000	0	0	0
HOPKINS	8305	US-41	IMPROVE NORTH MAIN STREET FROM HOSPITAL DRIVE TO KY-281. (06CCN)(12CCR)	PL					
				DN	STP	900,000			
				RW	STP	1,180,000			
				UT	STP		1,440,000		
				CN	STP				8,860,000
			Project Cost:			2,080,000	1,440,000	0	8,860,000
HOPKINS	20025	EB-9004	ADDRESS PAVEMENT CONDITION OF EDWARD T. BREATHITT PENNYRILE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 32.825 TO MILEPOINT 34.256	PL					
				DN	PM	170,000			
				RW					
				UT					
				CN	PM	1,700,000			
			Project Cost:			1,870,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
HOPKINS	20029	I-69	ADDRESS PAVEMENT CONDITION OF I-069 BOTH DIRECTION(S) FROM MILEPOINT 114.254 TO MILEPOINT 117.936	PL DN RW UT CN	PM			290,000	
								2,900,000	
			Project Cost:			0	0	3,190,000	0
HOPKINS	20031	I-69	ADDRESS PAVEMENT CONDITION OF I-069 BOTH DIRECTION(S) FROM MILEPOINT 124.946 TO MILEPOINT 133.677	PL DN RW UT CN	PM			875,000	
								8,750,000	
			Project Cost:			0	0	9,625,000	0
HOPKINS	20033	I-69	ADDRESS PAVEMENT CONDITION OF I-069 BOTH DIRECTION(S) FROM MILEPOINT 93.724 TO MILEPOINT 95.604	PL DN RW UT CN	PM		150,000		
							1,500,000		
			Project Cost:			0	1,650,000	0	0
HOPKINS	20034	I-69	ADDRESS PAVEMENT CONDITION OF I-069 BOTH DIRECTION(S) FROM MILEPOINT 95.604 TO MILEPOINT 105.046	PL DN RW UT CN	PM	760,000			
						7,600,000			
			Project Cost:			8,360,000	0	0	0
HOPKINS	20035	WK-9001	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 42.807 TO MILEPOINT 43.424	PL DN RW UT CN	PM			50,000	
								500,000	
			Project Cost:			0	0	550,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
HOPKINS	20048	US-41	ADDRESS PAVEMENT CONDITION ON US-41A FROM MILEPOINT 0.00 TO MILEPOINT 9.69	PL DN RW UT CN	PM			1,069,000	
Project Cost:						0	0	1,069,000	0
Total for HOPKINS county				PL DN RW UT CN		1,830,000 1,180,000 18,300,000	150,000 1,440,000 1,500,000	1,715,000 13,219,000	 1,000,000 1,000,000 8,860,000
Total Amounts:						21,310,000	3,090,000	14,934,000	10,860,000
JEFFERSON	48.1	I-71	ADDITION OF NB AND SB AUXILIARY LANES ON I-71 NEAR KENNEDY, INCLUDING OPERATIONAL IMPROVEMENTS TO THE ZORN INTERCHANGE. (2004BOPC)	PL DN RW UT CN	NH		12,380,000		
Project Cost:						0	12,380,000	0	0
JEFFERSON	48.11	I-71	ADDITION OF NB AND SB AUX. LANES ON I-71 NEAR KENNEDY, INCLUDING OPERATIONAL IMPROVEMENTS TO THE ZORN INTERCHANGE. (ADDITIONAL FUNDING FOR C PHASE)	PL DN RW UT CN	NH			12,380,000	
Project Cost:						0	0	12,380,000	0
JEFFERSON	64.01	I-64	ADDRESS DEFICIENCIES ON I-64 SHERMAN MINTON BRIDGE OVER THE OHIO RIVER. (JOINT PROJECT WITH INDIANA)(056B00279N)	PL DN RW UT CN	BR	10,000,000			
Project Cost:						10,000,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	64.02	I-64	ADDRESS DEFICIENCIES ON I-64 SHERMAN MINTON BRIDGE OVER THE OHIO RIVER. (JOINT PROJECT WITH INDIANA)(056B00279N)	PL					
				DN					
				RW					
				UT					
				CN	BR		10,000,000		
				Project Cost:		0	10,000,000	0	0
JEFFERSON	64.03	I-64	ADDRESS DEFICIENCIES ON I-64 SHERMAN MINTON BRIDGE OVER THE OHIO RIVER. (JOINT PROJECT WITH INDIANA)(056B00279N)	PL					
				DN					
				RW					
				UT					
				CN	BR			10,000,000	
				Project Cost:		0	0	10,000,000	0
JEFFERSON	64.04	I-64	ADDRESS DEFICIENCIES ON I-64 SHERMAN MINTON BRIDGE OVER THE OHIO RIVER. (JOINT PROJECT WITH INDIANA)(056B00279N)	PL					
				DN					
				RW					
				UT					
				CN	BR				10,000,000
				Project Cost:		0	0	0	10,000,000
JEFFERSON	136	I-265	CLEAN AND PAINT ALL STEEL BRIDGES AND STEEL BEARINGS ON THE GENE SNYDER FREEWAY(10CCR)(SD)	PL					
				DN					
				RW					
				UT					
				CN	BR	3,790,000			
				Project Cost:		3,790,000	0	0	0
JEFFERSON	247.11	KY-1450	WIDEN BLUE LICK ROAD FROM SNYDER FREEWAY NORTH TO KY-61 (LOU T.I.P.) (SECTION 2) (RU-04DEOB)(08CCR)(12CCR) (16CCR)	PL					
				DN					
				RW					
				UT					
				CN	STP	6,500,000			
				Project Cost:		6,500,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	323.01	KY-1931	WIDEN GREENWOOD ROAD FROM GREENBELT HWY TO DIXIE HWY (US-31W) (3-LANE IMPROVEMENT) FROM MP 0.54 TO MP 3.148. (98CCR)(R-04DEOB)(04CCR)(BOP2006P) (10CCR)(12CCR)	PL DN RW UT CN	SPP		4,860,000		
				Project Cost:		0	4,860,000	0	0
JEFFERSON	323.03	KY-1931	WIDEN GREENWOOD ROAD FROM GREENBELT HWY TO DIXIE HWY (US-31W) (3-LANE IMPROVEMENT) FROM MP 0.54 TO MP 3.148. (98CCR)(R-04DEOB)(04CCR)(BOP2006P) (10CCR)(12CCR)	PL DN RW UT CN	SPP			4,860,000	
				Project Cost:		0	0	4,860,000	0
JEFFERSON	371.1	KY-22	RECONSTRUCT KY-22 AT SPRINGCREST DRIVE. (06CCN) (2004BOPC)(14CCR)(EMERGENCY CULVERT REPLACEMENT AWARDED UNDER 5-371.12)	PL DN RW UT CN	STP		1,740,000		
				Project Cost:		0	1,740,000	0	0
JEFFERSON	483.02	I-71	SIX LANE PRIORITY SECTION OF I-71 BETWEEN I-265 AND KY-329.(16CCR)	PL DN RW UT CN	NH	30,000,000			
				Project Cost:		30,000,000	0	0	0
JEFFERSON	495	KY-1020	OLMSTED PARKWAYS MULTI-USE PATH SYSTEM-SOUTHERN PKWY: CONSTRUCTION OF A 2.5 MILE SHARED USE PATH SYSTEM ALONG SOUTHERN PARKWAY BETWEEN SOUTH 3RD AND NEW CUT ROAD.	PL DN RW UT CN	SLO	4,672,877			
				Project Cost:		4,672,877	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	537	I-265	SIX LANE PRIORITY SECTION OF I-265 BETWEEN TAYLORSVILLE ROAD AND I-71.	PL					
				DN					
				RW					
				UT					
				CN	NH		15,000,000		
				Project Cost:		0	15,000,000	0	0
JEFFERSON	537.01	I-265	SIX LANE PRIORITY SECTION OF I-265 BETWEEN TAYLORSVILLE ROAD AND I-71.	PL					
				DN					
				RW	NH	1,580,000			
				UT	NH	2,080,000			
				CN	NH			15,000,000	
				Project Cost:		3,660,000	0	15,000,000	0
JEFFERSON	537.02	I-265	SIX LANE PRIORITY SECTION OF I-265 BETWEEN TAYLORSVILLE ROAD AND I-71.	PL					
				DN					
				RW					
				UT					
				CN	NH				25,000,000
				Project Cost:		0	0	0	25,000,000
JEFFERSON	549.01	I-265	RECONSTRUCTION OF THE I-265/I-64 INTERCHANGE. (2016BOP)	PL					
				DN					
				RW					
				UT					
				CN	NH	15,000,000			
				Project Cost:		15,000,000	0	0	0
JEFFERSON	553	I-64	IMPROVEMENTS WITHIN THE I-64 CORRIDOR FROM THE KENNEDY INTERCHANGE TO I-264 (WATTERSON EXPRESSWAY) ADDRESSING SAFETY AND CONGESTION ISSUES. THE IMPROVEMENTS MAY INCLUDE BUT ARE NOT	PL	NH				
				DN	NH		2,550,000		
				RW					
				UT					
				CN					
				Project Cost:		0	2,550,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	554	I-265	IMPROVE SAFETY AND REDUCE CONGESTION ON I-265 FROM I-65 TO US-31E.	PL	NH	1,000,000			
				DN	NH			3,000,000	
				RW					
				UT					
				CN					
				Project Cost:		1,000,000	0	3,000,000	0
JEFFERSON	556	I-71	IMPROVE SAFETY AND REDUCE CONGESTION ON I-71 FROM ZORN AVE TO I-264.	PL					
				DN	NH			2,000,000	
				RW					
				UT					
				CN					
				Project Cost:		0	0	2,000,000	0
JEFFERSON	557	I-71	IMPROVE SAFETY AND REDUCE CONGESTION ON I-71 FROM I-264 TO I-265.	PL	NH				
				DN	NH		3,000,000		
				RW					
				UT					
				CN					
				Project Cost:		0	3,000,000	0	0
JEFFERSON	558	I-265	IMPROVE SAFETY AND REDUCE CONGESTION ON I-265 FROM US-31E (BARDSTOWN RD) TO KY-155 (TAYLORSVILLE RD).	PL					
				DN	NH			7,500,000	
				RW					
				UT					
				CN					
				Project Cost:		0	0	7,500,000	0
JEFFERSON	559	I-65	IMPROVE SAFETY AND REDUCE CONGESTION AT THE I-65/I-264 (WATTERSON EXPRESSWAY) INTERCHANGE.	PL	NH				
				DN	NH	3,000,000			
				RW					
				UT					
				CN					
				Project Cost:		3,000,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	559.01	I-65	IMPROVE SAFETY AND REDUCE CONGESTION AT THE I-65/I-264 (WATTERSON EXPRESSWAY) INTERCHANGE.	PL DN RW UT CN	NH		3,000,000		
				Project Cost:		0	3,000,000	0	0
JEFFERSON	560	I-65	IMPROVE SAFETY AND REDUCE CONGESTION AT THE I-65/I-265 (GENE SNYDER FREEWAY) INTERCHANGE.	PL DN RW UT CN	NH	400,000			
				Project Cost:		400,000	0	0	0
JEFFERSON	561	-0	INTERSECTION RE-BUILD AT MAIN STREET/ STORY AVENUE / BAXTER AVENUE INCLUDING TRANSITIONS BETWEEN WENTZEL STREET TO THE WEST AND JOHNSON STREET TO THE EAST.	PL DN RW UT CN	SLO	3,314,319			
				Project Cost:		3,314,319	0	0	0
JEFFERSON	804	I-264	RECONSTRUCT/WIDEN I-264 (WATTERSON EXPRESSWAY) FROM WESTPORT ROAD (KY-1447) TO I-71, INCLUDING THE US-42 INTERCHANGE AS A SPUI.(PROJECT INCLUDES 5-594) (12CCR)(14CCR)	PL DN RW UT CN	NH NH NH	5,280,000 1,270,000			23,590,000
				Project Cost:		6,550,000	0	0	23,590,000
JEFFERSON	965.19	-0	DEDICATED FEDERAL AID STP FUNDS EARMARKED FOR LOUISVILLE URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2021. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SLO	11,670,000			
				Project Cost:		11,670,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	965.2	-0	DEDICATED FEDERAL AID STP FUNDS EARMARKED FOR LOUISVILLE URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2022. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SLO		23,500,000		
Project Cost:						0	23,500,000	0	0
JEFFERSON	965.21	-0	DEDICATED FEDERAL AID STP FUNDS EARMARKED FOR LOUISVILLE URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2023. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SLO			9,262,000	
Project Cost:						0	0	9,262,000	0
JEFFERSON	965.22	-0	DEDICATED FEDERAL AID STP FUNDS EARMARKED FOR LOUISVILLE URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2024. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SLO				23,500,000
Project Cost:						0	0	0	23,500,000
JEFFERSON	3030.4	US-60	NORTHEAST LOUISVILLE LOOP MET SECTION 4 BECKLEY CREEK PARK TO EASTWOOD CUTOFF. CONSTRUCT A SHARED USE PATH ALONG US 60 FROM BECKLEY CREEK PARK TO EASTWOOD CUT OFF, 0.6 MILE. (2016BOP)	PL DN RW UT CN	SLO	1,000,000			
Project Cost:						1,000,000	0	0	0
JEFFERSON	3212	CS-2048	CONSTRUCT A SIDEWALK ALONG CANNONS LANE BETWEEN WILLIS AVE. AND BOWMAN FIELD (SENECA LOOP), 1.0 MILES (2016BOP)	PL DN RW UT CN	SLO	500,000			
Project Cost:						500,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	8203	KY-1819	RECONSTRUCT BILLTOWN ROAD FROM NORTH OF COLONNADES PLACE TO SOUTH OF EASUM ROAD. (04CCN)(06CCN)(08CCR)(10CCR)(12CCR)	PL DN RW UT CN	SPP				2,700,000
Project Cost:						0	0	0	2,700,000
JEFFERSON	8810	KY-1931	THREE LANE WIDENING ALONG KY-1931 FROM THE DOSS HIGH SCHOOL ENTRANCE TO PALATKA ROAD, INCLUDING INTERSECTION IMPROVEMENTS WITH PALATKA ROAD AND TURN LANES. (14CCN)	PL DN RW UT CN	STP STP		2,630,000 4,160,000		
Project Cost:						0	6,790,000	0	0
JEFFERSON	8858	I-71	DESIGN AND CONSTRUCT A SOUND BARRIER WALL ON THE NORTH SIDE OF I-71 FROM MP 5.4 TO MP 6.3 FOR APPROX. 4700 FEET. (14CCN)	PL DN RW UT CN	SPP				2,961,000
Project Cost:						0	0	0	2,961,000
JEFFERSON	8859	I-71	DESIGN AND CONSTRUCT A SOUND BARRIER WALL ON THE SOUTH SIDE OF I-71 FROM MP 7.5 TO MP 7.8 (14CCN)	PL DN RW UT CN	SPP			1,152,000	
Project Cost:						0	0	1,152,000	0
JEFFERSON	8860.1	I-71	DESIGN AND CONSTRUCT A SOUND BARRIER WALL ON THE NORTH SIDE OF I-71 FROM MP 7.5 TO MP 8.7 FOR APPROX. 6400 FEET. (14CCN)	PL DN RW UT CN	SPP	2,304,000			
Project Cost:						2,304,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	8908	KY-155	WIDEN TAYLORSVILLE RD. TO 3 LANES FROM I-265 TO KY-148	PL	SPP				
				DN					
				RW	SPP		1,000,000		
				UT	SPP		500,000		
				CN	SPP			15,930,000	
			Project Cost:			0	1,500,000	15,930,000	0
JEFFERSON	8952	US-60	WIDEN US-60 TO THREE LANES FROM EASTWOOD CUTOFF (MP 14.7) TO ROCKCREST WAY (MP 15.1). (16CCN) (LOCALS WILL DO DESIGN FOR \$330,000)	PL					
				DN					
				RW					
				UT					
				CN	SPP	1,000,000			
			Project Cost:			1,000,000	0	0	0
JEFFERSON	10016	I-64	BRIDGE PAINTING OF I-64 RIVERSIDE EXPRESSWAY BRIDGES. (056B00298N,056B00299N,056B00300N,056B00301N,056B00302N,056B00285N,056B00292N,056B00293N,056B00142N)	PL					
				DN					
				RW					
				UT					
				CN	BR	30,000,000			
			Project Cost:			30,000,000	0	0	0
JEFFERSON	20009	I-64	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 6 TO MILEPOINT 11.57	PL					
				DN	PM				575,000
				RW					
				UT					
				CN	PM				5,750,000
			Project Cost:			0	0	0	6,325,000
JEFFERSON	20014	I-71	ADDRESS PAVEMENT CONDITION OF I-071 BOTH DIRECTION(S) FROM MILEPOINT 0 TO MILEPOINT 11.32	PL					
				DN	PM				1,150,000
				RW					
				UT					
				CN	PM				11,500,000
			Project Cost:			0	0	0	12,650,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	20016	I-264	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-264 BOTH DIRECTION(S) FROM MILEPOINT 12.7 TO MILEPOINT 18.41	PL DN RW UT CN	PM				1,150,000
								11,500,000	
			Project Cost:			0	0	0	12,650,000
JEFFERSON	20017	I-264	ADDRESS PAVEMENT CONDITION OF I-264 BOTH DIRECTION(S) FROM MILEPOINT 20.7 TO MILEPOINT 22.927	PL DN RW UT CN	PM			450,000	
								4,500,000	
			Project Cost:			0	0	4,950,000	0
JEFFERSON	20019	I-265	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-265 BOTH DIRECTION(S) FROM MILEPOINT 15.66 TO MILEPOINT 18.8	PL DN RW UT CN	PM		325,000		
							3,250,000		
			Project Cost:			0	3,575,000	0	0
JEFFERSON	20021	I-265	ADDRESS PAVEMENT CONDITION OF I-265 BOTH DIRECTION(S) FROM MILEPOINT 23.364 TO MILEPOINT 26.6	PL DN RW UT CN	PM		350,000		
							3,500,000		
			Project Cost:			0	3,850,000	0	0
JEFFERSON	20022	KY-841	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL DN RW UT CN	PM		725,000		
							7,250,000		
			Project Cost:			0	7,975,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	20024	KY-913	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	50,000			
				RW					
				UT					
				CN	PM	500,000			
				Project Cost:		550,000	0	0	0
JEFFERSON	20025	KY-1020	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	75,000			
				RW					
				UT					
				CN	PM	750,000			
				Project Cost:		825,000	0	0	0
JEFFERSON	20027	KY-1932	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	50,000			
				RW					
				UT					
				CN	PM	500,000			
				Project Cost:		550,000	0	0	0
JEFFERSON	20028	KY-1934	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	325,000			
				RW					
				UT					
				CN	PM	3,250,000			
				Project Cost:		3,575,000	0	0	0
JEFFERSON	20029	KY-1934	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM		375,000		
				RW					
				UT					
				CN	PM		3,750,000		
				Project Cost:		0	4,125,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	20030	KY-2048	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM		100,000		
				RW					
				UT					
				CN	PM		1,000,000		
			Project Cost:			0	1,100,000	0	0
JEFFERSON	20031	KY-2052	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	300,000			
				RW					
				UT					
				CN	PM	3,000,000			
			Project Cost:			3,300,000	0	0	0
JEFFERSON	20039	US-31	ADDRESS PAVEMENT CONDITION ON US-31W FROM MILEPOINT 0.00 TO MILEPOINT 7.25	PL					
				DN					
				RW					
				UT					
				CN	PM		965,000		
			Project Cost:			0	965,000	0	0
JEFFERSON	80001	US-60	WIDEN US-60 TO 6 LANES FROM OLD SHELBYVILLE RD. TO NORTH ENGLISH STATION RD.	PL					
				DN					
				RW	SPP	550,000			
				UT	SPP		720,000		
				CN	SPP			1,500,000	
			Project Cost:			550,000	720,000	1,500,000	0
JEFFERSON	80002	I-64	NEW INTERCHANGE ON I-64E EAST OF THE GENE SNYDER FREEWAY	PL	SPP	650,000			
				DN					
				RW					
				UT					
				CN					
			Project Cost:			650,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JEFFERSON	80006	KY-841	CONSTRUCT NEW INTERCHANGE ON KY-841 AT THE RENAISSANCE SOUTH BUSINESS PARK	PL DN RW UT CN	SPP	12,500,000			
			Project Cost:			12,500,000	0	0	0
JEFFERSON	80051	I-264	EXTEND EXISTING SOUND WALL ON I-264 NEAR NEWBURG RD. APPROXIMATELY 750' WEST.	PL DN RW UT CN	SPP	50,000			
			Project Cost:			325,000	0	0	0
JEFFERSON	80052	I-64	DESIGN AND CONSTRUCT A SOUND BARRIER WALL ON THE WESTBOUND SIDE OF I-64 FROM MP 10.3 TO MP 11.2 FOR APPROXIMATELY 4800 FEET	PL DN RW UT CN	SPP	250,000			
			Project Cost:			3,206,000	3,206,000	0	0
Total for JEFFERSON county				PL DN RW UT CN		2,050,000 4,100,000 7,410,000 3,350,000 140,576,196	10,425,000 3,630,000 5,380,000 90,401,000	12,950,000 74,584,000	2,875,000 116,501,000
			Total Amounts:			157,486,196	109,836,000	87,534,000	119,376,000
JESSAMINE	87.2	-0	EAST NICHOLASVILLE BYPASS SECTION IA: IMPROVE CONNECTIVITY AND MOBILITY EAST AROUND NICHOLASVILLE FROM SOUTH OF KY-39 TO NORTH OF KY-169.	PL DN RW UT CN	SPP				7,800,000
			Project Cost:			0	0	0	7,800,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
JESSAMINE	414	KY-1980	IMPROVE ROADWAY GEOMETRICS, TYPICAL SECTION, AND ROADWAY HAZARDS ON KY 1980 (BRANNON RD) FROM US 68 (HARRODSBURG RD) TO US 27 (NICHOLASVILLE RD)(12CCR)	PL					
				DN					
				RW	SPP	5,500,000			
				UT	SPP			5,000,000	
				CN	SPP				12,000,000
			Project Cost:			5,500,000	0	5,000,000	12,000,000
Total for JESSAMINE county				PL					
				DN					
				RW		5,500,000			
				UT				5,000,000	
				CN					19,800,000
			Total Amounts:			5,500,000	0	5,000,000	19,800,000
KENTON	162.1	KY-1303	IMPROVE SAFETY AND REDUCE CONGESTION ON KY-1303 FROM KY-536 TO BEECHGROVE ELEMENTARY (PRIORITY SECTION 4). DESIGN PHASE UNDER PARENT NO. 6-162.01. (2012BOP)(16CCR)	PL					
				DN					
				RW	STP			3,000,000	
				UT	STP			3,000,000	
				CN	STP				9,000,000
			Project Cost:			0	0	6,000,000	9,000,000
KENTON	162.21	KY-536	IMPROVE SAFETY AND REDUCE CONGESTION ON KY-536 FROM THE WEST END OF THE NS RAILROAD BRIDGE (B91) TO KY-1303 (PRIORITY SECTION 1). DESIGN PHASE UNDER PARENT NO. 6-162.01. (16CCN)	PL					
				DN					
				RW					
				UT					
				CN	STP	5,410,000			
			Project Cost:			5,410,000	0	0	0
KENTON	162.3	KY-536	IMPROVE SAFETY AND REDUCE CONGESTION ON KY-536 FROM KY 1303 TO WILLIAMSWOOD ROAD/CALVARY DRIVE (PRIORITY SECTION 2). DESIGN PHASE UNDER PARENT NO. 6-162.01 (2012BOP)	PL					
				DN					
				RW					
				UT					
				CN	SPP		13,500,000		
			Project Cost:			0	13,500,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
KENTON	162.4	KY-536	IMPROVE SAFETY AND REDUCE CONGESTION ON KY-536 FROM WILLIAMSWOOD ROAD/CALVARY DRIVE TO KY-17 (PRIORITY SECTION 3). DESIGN PHASE UNDER PARENT NO. 6-162.01. (2012BOP)	PL DN RW UT CN	 SPP SPP 	 	12,080,000		1,560,000
Project Cost:						0	12,080,000	0	1,560,000
KENTON	1086	KY-8	ADDRESS DEFICIENCIES OF BRIDGE OVER LICKING RIVER ON WEST 4TH STREET (KY 8) IN COVINGTON/NEWPORT AT KENTON/CAMPBELL CO LN. (059B00037N) *CAMPBELL CO MPS ARE 0.0-0.19	PL DN RW UT CN	 BR BR BR BR	3,900,000 	2,440,000 1,170,000		32,900,000
Project Cost:						3,900,000	3,610,000	0	32,900,000
KENTON	8951	US-25	IMPROVE EXISTING ALIGNMENT WITH BUTTERMILK PIKE, ORPHANAGE ROAD, AND US 25. FT. MITCHELL WILL PAY \$50,000 TOWARD DESIGN.	PL DN RW UT CN	 SPP SPP SPP	5,000,000 	2,000,000	5,000,000	0
Project Cost:						5,000,000	2,000,000	5,000,000	0
KENTON	20030	I-75	ADDRESS PAVEMENT CONDITION OF I-075 CARDINAL DIRECTION(S) FROM MILEPOINT 166.263 TO MILEPOINT 169.439	PL DN RW UT CN	 PM	390,000 			
Project Cost:						4,290,000	0	0	0
KENTON	20031	I-75	ADDRESS PAVEMENT CONDITION OF I-075 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 166.263 TO MILEPOINT 169.439	PL DN RW UT CN	 PM			390,000	
Project Cost:						0	0	4,290,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
KENTON	20032	I-75	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-075 BOTH DIRECTION(S) FROM MILEPOINT 186.95 TO MILEPOINT 190.721	PL DN RW UT CN	PM				750,000
					PM				7,500,000
				Project Cost:		0	0	0	8,250,000
KENTON	20034	I-75	ADDRESS PAVEMENT CONDITION OF I-075 CARDINAL DIRECTION(S) FROM MILEPOINT 190.721 TO MILEPOINT 191.777	PL DN RW UT CN	PM		100,000		
					PM		1,000,000		
				Project Cost:		0	1,100,000	0	0
KENTON	20036	I-275	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-275 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 1.054 TO MILEPOINT 1.582	PL DN RW UT CN	PM	40,000			
					PM	400,000			
				Project Cost:		440,000	0	0	0
KENTON	20037	I-275	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-275 BOTH DIRECTION(S) FROM MILEPOINT 77.759 TO MILEPOINT 79.796	PL DN RW UT CN	PM				300,000
					PM				3,000,000
				Project Cost:		0	0	0	3,300,000
KENTON	20038	I-275	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-275 BOTH DIRECTION(S) FROM MILEPOINT 80.12 TO MILEPOINT 82.475	PL DN RW UT CN	PM				350,000
					PM				3,500,000
				Project Cost:		0	0	0	3,850,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
KENTON	20040	KY-16	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	400,000			
				RW					
				UT					
				CN	PM	4,000,000			
			Project Cost:			4,400,000	0	0	0
KENTON	20041	KY-16	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	75,000			
				RW					
				UT					
				CN	PM	750,000			
			Project Cost:			825,000	0	0	0
KENTON	20042	KY-16	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL					
				DN	PM	50,000			
				RW					
				UT					
				CN	PM	500,000			
			Project Cost:			550,000	0	0	0
KENTON	20043	KY-17	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL					
				DN	PM	880,000			
				RW					
				UT					
				CN	PM	8,800,000			
			Project Cost:			9,680,000	0	0	0
KENTON	20044	KY-236	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	30,000			
				RW					
				UT					
				CN	PM	300,000			
			Project Cost:			330,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
KENTON	20045	KY-1072	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL					
				DN	PM	20,000			
				RW					
				UT					
				CN	PM	200,000			
			Project Cost:			220,000	0	0	0
KENTON	20046	US-25	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL					
				DN	PM	325,000			
				RW					
				UT					
				CN	PM	3,250,000			
			Project Cost:			3,575,000	0	0	0
KENTON	20051	KY-177	ADDRESS PAVEMENT CONDITION ON KY-177 FROM MILEPOINT 9.17 TO MILEPOINT 15.99	PL					
				DN					
				RW					
				UT					
				CN	PM		893,000		
			Project Cost:			0	893,000	0	0
KENTON	80002	KY 236	RECONSTRUCT KY 236 (STEVENSON ROAD) FROM ALICE STREET TO JACQUELINE DRIVE	PL					
				DN					
				RW					
				UT	SPP	1,000,000			
				CN	SPP		5,300,000		
			Project Cost:			1,000,000	5,300,000	0	0
Total for KENTON county				PL					
				DN		6,110,000	100,000	390,000	1,400,000
				RW		5,000,000	14,520,000	3,000,000	
				UT		1,000,000	3,170,000	3,000,000	1,560,000
				CN		27,510,000	20,693,000	8,900,000	55,900,000
				Total Amounts:		39,620,000	38,483,000	15,290,000	58,860,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
KNOX	188.01	US-25	IMPROVE SAFETY AND ACCESS MANAGEMENT, AND REDUCE CONGESTION ON US-25E FROM CORBIN BYPASS TO KNOX/LAUREL COUNTY LINE.(12CCR)	PL DN RW UT CN	NH	6,920,000			
Project Cost:						6,920,000	0	0	0
KNOX	20022	US-25	ADDRESS PAVEMENT CONDITION ON US-25E FROM MILEPOINT 21.72 TO MILEPOINT 26.20	PL DN RW UT CN	PM			2,267,000	
Project Cost:						0	0	2,267,000	0
Total for KNOX county				PL DN RW UT CN		6,920,000		2,267,000	
Total Amounts:						6,920,000	0	2,267,000	0
LAUREL	9.14	I-75	IMPROVE I-75 FROM US-25E TO THE LITTLE LAUREL RIVER (16CCR)	PL DN RW UT CN	NH	20,000,000			
Project Cost:						20,000,000	0	0	0
LAUREL	9.15	I-75	IMPROVE I-75 FROM US-25E TO THE LITTLE LAUREL RIVER (16CCR)	PL DN RW UT CN	NH		18,500,000		
Project Cost:						0	18,500,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
LAUREL	9.16	I-75	IMPROVE I-75 FROM US-25E TO THE LITTLE LAUREL RIVER (16CCR)	PL					
				DN					
				RW					
				UT					
				CN	NH			18,500,000	
				Project Cost:		0	0	18,500,000	0
LAUREL	11	I-75	IMPROVE I-75 FROM KY 80 AT LONDON TO SOUTH OF THE KY-909 UNDERPASS.	PL					
				DN					
				RW					
				UT					
				CN	NH		20,750,000		
				Project Cost:		0	20,750,000	0	0
LAUREL	11.02	I-75	IMPROVE I-75 FROM KY-80 AT LONDON TO SOUTH OF THE KY-909 UNDERPASS.	PL					
				DN					
				RW					
				UT					
				CN	NH			20,750,000	
				Project Cost:		0	0	20,750,000	0
LAUREL	11.03	I-75	IMPROVE I-75 FROM KY-80 AT LONDON TO SOUTH OF THE KY-909 UNDERPASS.	PL					
				DN					
				RW					
				UT					
				CN	NH				20,750,000
				Project Cost:		0	0	0	20,750,000
LAUREL	147	US-25	REDUCE CONGESTION ON US-25 FROM KY-1006 TO KY-2069; IMPROVE CONNECTIVITY FROM US-25 NEAR KY-2069 TO KY-229; IMPROVE KY-229 FROM THE NEW CONNECTOR NORTH TO KY-192; AND IMPROVE ACCESS TO THE	PL					
				DN					
				RW					
				UT					
				CN	STP		10,000,000		
				Project Cost:		0	10,000,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
LAUREL	147.01	US-25	REDUCE CONGESTION ON US-25 FROM KY-1006 TO KY-2069; IMPROVE CONNECTIVITY FROM US-25 NEAR KY-2069 TO KY-229; IMPROVE KY-229 FROM THE NEW CONNECTOR NORTH TO KY-192; AND IMPROVE ACCESS TO THE	PL DN RW UT CN	STP			5,000,000	
			Project Cost:			0	0	5,000,000	0
LAUREL	185.01	US-25	IMPROVE SAFETY, IMPROVE ACCESS MANAGEMENT, AND REDUCE CONGESTION ON US-25E FROM THE KNOX/LAUREL COUNTY LINE TO KY-770 (12CCR)(16CCR)	PL DN RW UT CN	NH	6,860,000			
			Project Cost:			6,860,000	0	0	0
LAUREL	187	KY-192	IMPROVE SAFETY, ACCESS MANAGEMENT, AND FREIGHT MOBILITY; AND REDUCE CONGESTION ON KY-192 NEAR KY-1006 TO US-25 IN LONDON. (12CCR)	PL DN RW UT CN	NH		6,000,000		
			Project Cost:			0	6,000,000	0	0
LAUREL	187.01	KY-192	IMPROVE SAFETY, ACCESS MANAGEMENT, AND FREIGHT MOBILITY; AND REDUCE CONGESTION ON KY-192 NEAR KY-1006 TO US-25 IN LONDON. (12CCR)	PL DN RW UT CN	NH			12,000,000	
			Project Cost:			0	0	12,000,000	0
LAUREL	365	HR-9006	REDUCE CONGESTION ON THE HAL ROGERS PARKWAY FROM RELOCATED KY-30 TO KY-192.	PL DN RW UT CN	NH NH NH NH	1,870,000	2,080,000 1,250,000	4,510,000	
			Project Cost:			1,870,000	3,330,000	4,510,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
LAUREL	8515	US-25	IMPROVE CONNECTIVITY BETWEEN CORBIN AND LONDON FROM KY-1006 TO US-25E. (08CCN)	PL DN RW UT CN	STP		3,000,000		
			Project Cost:			0	3,000,000	0	0
LAUREL	8909	HR-9006	IMPROVE THE HAL ROGERS PARKWAY TO INTERSTATE STANDARDS FROM 4.0 MI EAST OF KY 192 TO LAUREL/CLAY CO. LINE. (I-75 TO HAZARD) (16CCN).	PL DN RW UT CN	NH SPP SPP SPP	1,000,000	2,200,000	1,000,000	27,000,000
			Project Cost:			1,000,000	2,200,000	1,000,000	27,000,000
LAUREL	20010	I-75	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 29.39 TO MILEPOINT 32.49 (33.2 NON-CARDINAL)	PL DN RW UT CN	PM PM			300,000	
			Project Cost:			0	0	3,300,000	0
LAUREL	20012	I-75	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 41.4 TO MILEPOINT 50.524 (49.87 NON-CARDINAL)	PL DN RW UT CN	PM PM			1,100,000	
			Project Cost:			0	0	12,100,000	0
LAUREL	20023	KY-490	ADDRESS PAVEMENT CONDITION ON KY-490 FROM MILEPOINT 0.00 TO MILEPOINT 6.14	PL DN RW UT CN	PM		924,000		
			Project Cost:			0	924,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
Total for LAUREL county				PL					
				DN		2,870,000	3,000,000	1,400,000	
				RW			4,280,000		
				UT			1,250,000	1,000,000	
				CN		26,860,000	56,174,000	74,760,000	47,750,000
				Total Amounts:		29,730,000	64,704,000	77,160,000	47,750,000
LEE	292.1	KY-11	I-75 TO MOUNTAIN PARKWAY; RECONSTRUCT KY-11 FROM KY-30 AT LEVI IN OWSLEY COUNTY TO 0.5 MILE SOUTH OF KY-587 IN LEE COUNTY. START AT KY-30 AT LEVI IN OWSLEY MOVING NORTH (06CCR)(10CCR)(14CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	22,620,000			
				Project Cost:		22,620,000	0	0	0
Total for LEE county				PL					
				DN					
				RW					
				UT					
				CN		22,620,000			
				Total Amounts:		22,620,000	0	0	0
LESLIE	8516	KY-1482	CONSTRUCT A NEW APPROACH FROM KY-1482 ONTO THE HAL ROGERS PARKWAY AT MP 39. (08CCN)(10CCR)(2011BOPP)	PL					
				DN	SPP	1,000,000			
				RW	SPP		920,000		
				UT	SPP		420,000		
				CN	SPP			5,300,000	
				Project Cost:		1,000,000	1,340,000	5,300,000	0
LESLIE	8912	HR-9006	UPGRADE ROUTE FROM SOMERSET TO HAZARD TO INTERSTATE STANDARDS: 4 LANE FROM CLAY/LESLIE LINE TO HYDEN SPUR, MP 35.929 TO MP 44.188 (SEGMENT 9)	PL					
				DN	SPP	1,000,000			
				RW	SPP		12,000,000		
				UT	SPP		9,000,000		
				CN	SPP			94,400,000	
				Project Cost:		1,000,000	21,000,000	94,400,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
LESLIE	8913	HR-9006	UPGRADE ROUTE FROM SOMERSET TO HAZARD TO INTERSTATE STANDARDS: 4 LANE FROM HYDEN SPUR TO LESLIE/PERRY LINE (SEGMENT 10)	PL DN RW UT CN	 SPP SPP SPP SPP	1,000,000 	 10,000,000 7,000,000 	 	 61,600,000
			Project Cost:			1,000,000	17,000,000	0	61,600,000
LESLIE	8951	US-421	CONSTRUCT RIGHT TURN LANE ON US 421 AT INTERSECTION WITH KY 80.	PL DN RW UT CN	 SPP SPP SPP SPP	500,000 	 100,000 250,000 	 1,200,000	 0
			Project Cost:			500,000	350,000	1,200,000	0
LESLIE	10029	KY-2431	ADDRESS DEFICIENCIES OF KY-2431 BRIDGE OVER MIDDLE FORK OF KY RIVER. (066B00039N)	PL DN RW UT CN	 BR BR BR BR	300,000 	 75,000 180,000 	 	 1,100,000
			Project Cost:			300,000	255,000	0	1,100,000
LESLIE	80002	KY 3424	SAFETY IMPROVEMENTS ON KY 3424 FROM MP 1.1 TO MP 1.5	PL DN RW UT CN	 SPP	 1,300,000	 	 	
			Project Cost:			1,300,000	0	0	0
LESLIE	80003	KY 2009	INSTALL NEW GUARDRAIL ON KY 2009 FROM MP 13.418 TO MP 14.767	PL DN RW UT CN	 SPP	 500,000	 	 	
			Project Cost:			500,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
LESLIE	80004	KY 1482	INSTALL NEW GUARDRAIL ON KY 1482 FROM MP 0 TO MP 1.9	PL					
				DN					
				RW					
				UT					
				CN	SPP	107,000			
			Project Cost:			107,000	0	0	0
LESLIE	80005	KY 257	INSTALL NEW GUARDRAIL ON KY 257 FROM MP 5.723 TO MP 5.853	PL					
				DN					
				RW					
				UT					
				CN	SPP	22,000			
			Project Cost:			22,000	0	0	0
LESLIE	80006	KY 1807	INSTALL NEW GUARDRAIL ON KY 1807 FROM MP 0.914 TO MP 1.256	PL					
				DN					
				RW					
				UT					
				CN	SPP	45,000			
			Project Cost:			45,000	0	0	0
LESLIE	80007	KY 118	CONSTRUCT A SECONDARY RUNAWAY TRUCK RAMP ON KY 118 (HYDEN SPUR) JUST BEFORE THE INTERSECTION WITH KY 80/US 421 TO INCLUDE A NEW BOX CULVERT OR BRIDGE AT THE INTERSECTION	PL					
				DN	SPP	400,000			
				RW	SPP		300,000		
				UT	SPP		50,000		
				CN	SPP		1,300,000		
			Project Cost:			400,000	1,650,000	0	0
Total for LESLIE county				PL					
				DN		4,200,000			
				RW			23,395,000		
				UT			16,900,000		
				CN		1,974,000	1,300,000	100,900,000	62,700,000
			Total Amounts:			6,174,000	41,595,000	100,900,000	62,700,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
LETCHER	199.1	US-119	IMPROVE US-119 FROM NORTH OF KY-15 TO BRASS DRIVE (SOUTH).(16CCN)	PL					
				DN					
				RW	NH	1,300,000			
				UT	NH	1,200,000			
				CN					
			Project Cost:			<u>2,500,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
LETCHER	199.15	US-119	IMPROVE US-119 FROM KY 2034/COUGAR DRIVE TO BRASS DRIVE (SOUTH).(16CCN)(SEE 12-199.10 FOR D, R, U)	PL					
				DN					
				RW					
				UT					
				CN	NH	6,000,000			
			Project Cost:			<u>6,000,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
LETCHER	20005	US-119	ADDRESS PAVEMENT CONDITION ON US-119 FROM MILEPOINT 17.00 TO MILEPOINT 22.63	PL					
				DN					
				RW					
				UT					
				CN	PM		1,477,000		
			Project Cost:			<u>0</u>	<u>1,477,000</u>	<u>0</u>	<u>0</u>
Total for LETCHER county				PL					
				DN					
				RW		1,300,000			
				UT		1,200,000			
				CN		6,000,000	1,477,000		
				Total Amounts:		<u>8,500,000</u>	<u>1,477,000</u>	<u>0</u>	<u>0</u>
LEWIS	231	KY-59	RECONSTRUCT KY-59 FROM KY-9 (AA) IN VANCEBURG TO JUNCTION OF KY-344 MP 18.1 TO MP 23.19	PL					
				DN	SPP	6,000,000			
				RW	SPP		5,000,000		
				UT	SPP			3,000,000	
				CN	SPP				40,000,000
			Project Cost:			<u>6,000,000</u>	<u>5,000,000</u>	<u>3,000,000</u>	<u>40,000,000</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
LEWIS	8806.1	KY-8	RECONSTRUCT KY-8 FROM KY-8C IN GARRISON TO SCAFFOLD LICK ROAD.	PL					
				DN	SPP	500,000			
				RW					
				UT					
				CN					
				Project Cost:		500,000	0	0	0
LEWIS	8807	KY-57	RECONSTRUCT KY-57 FROM KY-9 TO FLEMING/LEWIS COUNTY LINE. (14CCN)	PL					
				DN	SPP		2,100,000		
				RW	SPP			5,200,000	
				UT	SPP			3,400,000	
				CN	SPP				20,000,000
				Project Cost:		0	2,100,000	8,600,000	20,000,000
LEWIS	20010	KY-9	ADDRESS PAVEMENT CONDITION	PL					
				DN	PM	210,000			
				RW					
				UT					
				CN	PM	2,100,000			
				Project Cost:		2,310,000	0	0	0
LEWIS	20017	KY-9	ADDRESS PAVEMENT CONDITION ON KY-9 FROM MILEPOINT 15.77 TO MILEPOINT 21.03	PL					
				DN					
				RW					
				UT					
				CN	PM		1,070,000		
				Project Cost:		0	1,070,000	0	0
Total for LEWIS county				PL					
			DN		6,710,000	2,100,000			
			RW			5,000,000	5,200,000		
			UT				6,400,000		
			CN		2,100,000	1,070,000			60,000,000
			Total Amounts:		8,810,000	8,170,000	11,600,000		60,000,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
LINCOLN	167	US-27	US-27 CORRIDOR FROM SOMERSET TO LEXINGTON. IMPROVE SAFETY AND REDUCE CONGESTION ON US-27 FROM KY-1247 TO EDUCATION WAY.	PL					
				DN					
				RW	NH		4,720,000		
				UT	NH		3,000,000		
				CN					
			Project Cost:			0	7,720,000	0	0
LINCOLN	167.01	US-27	US-27 CORRIDOR FROM SOMERSET TO LEXINGTON. IMPROVE SAFETY AND REDUCE CONGESTION ON US-27 FROM KY-1247 TO EDUCATION WAY.	PL					
				DN					
				RW	NH			7,080,000	
				UT	NH			4,500,000	
				CN					
			Project Cost:			0	0	11,580,000	0
LINCOLN	196.01	US-27	IMPROVE US-27 FROM KY-590 TO BELL STREET IN STANFORD. (INCLUDES NEW GOSHEN CUT-OFF ROAD)(2005HPP-KY115)	PL					
				DN					
				RW					
				UT					
				CN	NH	3,250,000			
			Project Cost:			3,250,000	0	0	0
LINCOLN	80009	US-27	EXPAND US-27 TO FOUR LANES FROM THE WALMART IN STANFORD TO THE DIX RIVER	PL					
				DN	SPP	2,100,000			
				RW	SPP		7,500,000		
				UT	SPP			6,500,000	
				CN	SPP				24,300,000
			Project Cost:			2,100,000	7,500,000	6,500,000	24,300,000
Total for LINCOLN county				PL					
				DN		2,100,000			
				RW			12,220,000	7,080,000	
				UT			3,000,000	11,000,000	
				CN		3,250,000			24,300,000
Total Amounts:						5,350,000	15,220,000	18,080,000	24,300,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
LIVINGSTON	330	US-60	PADUCAH-HENDERSON; RELOCATE US-60 FROM EAST OF THE TENNESSEE RIVER BRIDGE TO EAST OF RUDD-SPEES ROAD (00CCR)(12CCR) (14CCR)	PL DN RW UT CN	NH NH	1,580,000 1,560,000			
			Project Cost:			3,140,000	0	0	0
LIVINGSTON	20007	I-24	ADDRESS PAVEMENT CONDITION OF I-024 BOTH DIRECTION(S) FROM MILEPOINT 29.543 TO MILEPOINT 33.88	PL DN RW UT CN	PM			350,000	
			Project Cost:		PM	0	0	3,500,000	0
LIVINGSTON	20030	KY-453	ADDRESS PAVEMENT CONDITION ON KY-453 FROM MILEPOINT 0.00 TO MILEPOINT 4.57	PL DN RW UT CN	PM		879,000		
			Project Cost:		PM	0	879,000	0	0
Total for LIVINGSTON county				PL DN RW UT CN		1,580,000 1,560,000	879,000	350,000 3,500,000	
			Total Amounts:			3,140,000	879,000	3,850,000	0
LOGAN	8908	KY-2349	IMPROVE SAFETY BY IMPROVING SIGHT LINES CROSSING RAILROAD BETWEEN STOCKYARDS AND INDUSTRIAL PARK	PL DN RW UT CN	SPP SPP SPP SPP	150,000	100,000 150,000	850,000	
			Project Cost:			150,000	250,000	850,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
LOGAN	80050	US-79	WIDEN US-79 TO 3 LANES FROM TODD COUNTY LINE TO INTERSECTION WITH RUSSELLVILLE BYPASS.	PL					
				DN	STP	4,300,000			
				RW	STP		6,500,000		
				UT	STP			10,700,000	
				CN	STP				28,100,000
				Project Cost:		4,300,000	6,500,000	10,700,000	28,100,000
Total for LOGAN county				PL					
				DN		4,450,000			
				RW			6,600,000		
				UT			150,000	10,700,000	
				CN				850,000	28,100,000
				Total Amounts:		4,450,000	6,750,000	11,550,000	28,100,000
LYON	7	I-24	ADD RESTROOM FACILITY TO I-24 EASTBOUND & WESTBOUND WEIGH STATIONS IN LYON COUNTY (DESIGN FUNDS AUTHORIZED UNDER ITEM NO. 99-44.00)	PL					
				DN					
				RW					
				UT					
				CN	NH			1,900,000	
				Project Cost:		0	0	1,900,000	0
LYON	187.5	US-641	RELOCATE US-641 FROM US-62 NEAR EDDYVILLE TO SOUTH OF THE LYON/CALDWELL COUNTY LINE.	PL					
				DN					
				RW					
				UT					
				CN	NH		6,000,000		
				Project Cost:		0	6,000,000	0	0
LYON	187.51	US-641	RELOCATE US-641 FROM US-62 NEAR EDDYVILLE TO SOUTH OF THE LYON/CALDWELL COUNTY LINE.	PL					
				DN					
				RW	NH	2,000,000			
				UT	NH	500,000			
				CN	NH			6,000,000	
				Project Cost:		2,500,000	0	6,000,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
LYON	187.52	US-641	RELOCATE US-641 FROM US-62 NEAR EDDYVILLE TO SOUTH OF THE LYON/CALDWELL COUNTY LINE. (ADDITIONAL FUNDING FOR 1-187.50)	PL DN RW UT CN	NH				6,000,000
				Project Cost:		0	0	0	6,000,000
LYON	187.6	US-641	RELOCATE US-641 FROM SOUTH OF THE LYON/CALDWELL COUNTY LINE TO FREDONIA, 4.5 MILES.	PL DN RW UT CN	STP		7,500,000		
				Project Cost:		0	7,500,000	0	0
LYON	187.61	US-641	RELOCATE US-641 FROM SOUTH OF THE LYON/CALDWELL COUNTY LINE TO FREDONIA, 4.5 MILES.	PL DN RW UT CN	NH NH STP	2,000,000 800,000		7,500,000	
				Project Cost:		2,800,000	0	7,500,000	0
LYON	187.62	US-641	RELOCATE US-641 FROM SOUTH OF THE LYON/CALDWELL COUNTY LINE TO FREDONIA, 4.5 MILES. (ADDITIONAL FUNDING FOR 1-187.60)	PL DN RW UT CN	STP				7,500,000
				Project Cost:		0	0	0	7,500,000
LYON	20008	I-24	ADDRESS PAVEMENT CONDITION OF I-024 BOTH DIRECTION(S) FROM MILEPOINT 33.988 TO MILEPOINT 45.133	PL DN RW UT CN	PM PM				900,000
				Project Cost:		0	0	0	9,000,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
LYON	20010	I-24	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-024 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 45.171 TO MILEPOINT 51	PL DN RW UT CN	PM				300,000 3,000,000
Project Cost:						0	0	0	3,300,000
LYON	20011	I-24	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-024 BOTH DIRECTION(S) FROM MILEPOINT 51.89 (51.0 NON-CARDINAL) TO MILEPOINT 54.862	PL DN RW UT CN	PM				400,000 4,000,000
Project Cost:						0	0	0	4,400,000
Total for LYON county				PL DN RW UT CN		4,000,000 1,300,000	13,500,000	15,400,000	29,500,000
Total Amounts:						5,300,000	13,500,000	15,400,000	31,100,000
MADISON	192.21	-0	CONSTRUCT 4-LANE BERE A BYPASS SECTION 2; FROM 150' EAST OF US-25, SE TO KY-21. (2004BOPC)(08CCR)(12CCR) PHASE 2 - BERE A BYPASS FROM KY-1016 TO KY-21.	PL DN RW UT CN	SPP	12,000,000			
Project Cost:						12,000,000	0	0	0
MADISON	235.1	KY-52	IMPROVE KY-52 FROM WALLACE MILL ROAD TO INTERSTATE 75 AT THE DUNCANNON ROAD INTERCHANGE. (02CCR)(12CCN)(14CCR) (DESIGN/BUILD)(16CCR)	PL DN RW UT CN	SPP	9,000,000			
Project Cost:						9,000,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
MADISON	235.2	KY-52	IMPROVE KY-52 FROM WALLACE MILL ROAD TO INTERSTATE 75 AT THE DUNCANNON ROAD INTERCHANGE. (02CCR)(12CCN)(14CCR) (DESIGN/BUILD)(16CCR)	PL DN RW UT CN	SPP		10,000,000		
				Project Cost:		0	10,000,000	0	0
MADISON	251.4	US-25	PRIORITY SECTION II & III: WIDEN US-25 FROM US-421 TO PUMPKIN RUN.(SEE 7-251.10 FOR SEC III UTIL & CONST) (2006BOPC)(08CCR) (10CCR)(12CCR)(14CCR)	PL DN RW UT CN	NH				3,750,000
				Project Cost:		0	0	0	3,750,000
MADISON	8853	KY-2881	PROPOSED ROADWAY IMPROVEMENTS FROM DUNCANNON RD TO THE MADISON CO AIRPORT TO INCLUDE CALEST RD (KY 2881 MP.783-MP 2.780), JOHN BALLARD RD (KY 2877 MP 0-MP.806 & CR 1236 MP0-MP.429) FROM	PL DN RW UT CN	SPP SPP	2,700,000	9,000,000		
				Project Cost:		2,700,000	9,000,000	0	0
MADISON	20017	I-75	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 73.408 TO MILEPOINT 83.4	PL DN RW UT CN	PM PM	1,200,000			
				Project Cost:		13,200,000	0	0	0
Total for MADISON county				PL DN RW UT CN		1,200,000			
				Total Amounts:		36,900,000	19,000,000	0	3,750,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
MAGOFFIN	126.42	KY-9009	MOUNTAIN PARKWAY CORRIDOR: WIDEN THE MOUNTAIN PARKWAY TO 4 LANES FROM 0.3MI W OF KY 3047 (65.0) TO 0.7 MI W OF MIDDLE FORK LICKING RIVER BRIDGE (69.6). (2012BOP) (14CCR)(16CCN)	PL DN RW UT CN	NH	30,000,000			
			Project Cost:			30,000,000	0	0	0
MAGOFFIN	126.43	KY-9009	MOUNTAIN PARKWAY CORRIDOR: WIDEN THE MOUNTAIN PARKWAY TO 4 LANES FROM 0.3MI W OF KY 3047 (65.0) TO 0.7 MI W OF MIDDLE FORK LICKING RIVER BRIDGE (69.6). (2012BOP) (14CCR)(16CCN)	PL DN RW UT CN	NH		25,000,000		
			Project Cost:			0	25,000,000	0	0
MAGOFFIN	8901	US-460	IMPROVE US-460 IN MAGOFFIN COUNTY AT IVY POINT HILL WEST OF SALYERSVILLE. (16CCN)	PL DN RW UT CN	STP STP STP		1,660,000 220,000		2,490,000
			Project Cost:			0	1,880,000	0	2,490,000
MAGOFFIN	20013	US-460	ADDRESS PAVEMENT CONDITION ON US-460 FROM MILEPOINT 14.57 TO MILEPOINT 20.37	PL DN RW UT CN	PM		1,485,000		
			Project Cost:			0	1,485,000	0	0
Total for MAGOFFIN county				PL DN RW UT CN			1,660,000 220,000		2,490,000
			Total Amounts:			30,000,000 30,000,000	26,485,000 28,365,000	0	2,490,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
MARION	8802	KY-49	SPOT IMPROVEMENTS ON KY-49 (MP 20.900 TO MP 21.830) AS PER THE KY-49 PLANNING STUDY. (14CCN)	PL					
				DN					
				RW					
				UT	SPP	700,000			
				CN	SPP			2,400,000	
			Project Cost:			700,000	0	2,400,000	0
MARION	8916	KY-55	HEARTLAND PARKWAY: IMPROVE MOBILITY FROM THE LEBANON BYPASS TO BOOKER ROAD (CR 1214) NEAR SPRINGFIELD. (16CCN)	PL					
				DN					
				RW					
				UT					
				CN	NH		5,000,000		
			Project Cost:			0	5,000,000	0	0
MARION	8916.01	KY-55	HEARTLAND PARKWAY: IMPROVE MOBILITY FROM THE LEBANON BYPASS TO BOOKER ROAD (CR 1214) NEAR SPRINGFIELD. (16CCN)	PL					
				DN					
				RW					
				UT					
				CN	NH			4,000,000	
			Project Cost:			0	0	4,000,000	0
MARION	8917	US-68	HEARTLAND PARKWAY: MARION/TAYLOR LINE TO LEBANON BYPASS	PL					
				DN	SPP	600,000			
				RW	SPP			900,000	
				UT	SPP				900,000
				CN	SPP				11,000,000
			Project Cost:			600,000	0	900,000	11,900,000
Total for MARION county				PL					
				DN		600,000			
				RW				900,000	
				UT		700,000			900,000
				CN			5,000,000	6,400,000	11,000,000
Total Amounts:						1,300,000	5,000,000	7,300,000	11,900,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
MARSHALL	398	US-62	IMPROVE ACCESS AND REDUCE CONGESTION ON US-62 FROM KY-95 TO THE EXISTING FOUR-LANE HIGHWAY AT LONE VALLEY RD NEAR I-24 INTERCHANGE AND FUTURE I-69 CONNECTION.	PL DN RW UT CN		750,000		250,000 500,000	3,500,000
			Project Cost:			750,000	0	750,000	3,500,000
MARSHALL	10003	KY-1949	ADDRESS DEFICIENCIES OF KY-1949 BRIDGE OVER SMITH CREEK. (079B00110N)	PL DN RW UT CN					
			Project Cost:	BR		455,000	0	0	0
MARSHALL	20013	I-24	ADDRESS PAVEMENT CONDITION OF I-024 BOTH DIRECTION(S) FROM MILEPOINT 17.32 TO MILEPOINT 29.14	PL DN RW UT CN	PM			950,000	
			Project Cost:	PM		0	0	9,500,000	0
Total for MARSHALL county				PL DN RW UT CN		750,000		950,000 250,000 500,000	3,500,000
			Total Amounts:			1,205,000	0	11,200,000	3,500,000
MARTIN	192	KY-40	IMPROVE ALIGNMENT AND GEOMETRICS OF THE CURVE LOCATED JUST BEFORE THE JUNCTION OF KY-2031 AND KY-40 TO .1 MILES BEFORE GORDON HOLLOW ROAD, AND IMPROVE THE CULVERT/SAFETY DESIGN TO INCREASE	PL DN RW UT CN					1,460,000
			Project Cost:	SPP		0	0	0	1,460,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
MARTIN	4093	CR-1215	SETSER BRANCH ROAD BRIDGE AND APPROACHES OVER MIDDLE FORK OF ROCKCASTLE CREEK (C43) (OFF NHS) (FD04) (2000BOP): (080C00043N)	PL DN RW UT CN	SPP				350,000
Project Cost:						0	0	0	350,000
MARTIN	20006	KY-645	ADDRESS PAVEMENT CONDITION ON KY-645 FROM MILEPOINT 0.00 TO MILEPOINT 6.11	PL DN RW UT CN	PM		2,015,000		
Project Cost:						0	2,015,000	0	0
Total for MARTIN county				PL DN RW UT CN			2,015,000		1,810,000
Total Amounts:						0	2,015,000	0	1,810,000
MASON	147.2	US-68	NEW FULLY CONTROLLED ACCESS ROUTE FROM US 68 NEAR WASHINGTON EAST TO KY 11 INCLUDING A NEW I-CHNG AT KY 11. (PRIORITY SECTION)(2004BOPC)(06CCR)	PL DN RW UT CN	SPP	780,000		1,580,000 1,820,000	32,450,000
Project Cost:						780,000	0	3,400,000	32,450,000
MASON	147.6	US-68	NEW FULLY CONTROLLED ACCESS ROUTE FROM KY 11 NORTHEAST TO KY 9 (AA HWY) INCLUDING NEW I-CHNG AT KY 9. (2004BOPC) (06CCR)	PL DN RW UT CN	SPP	780,000	1,580,000 1,820,000		33,750,000
Project Cost:						780,000	3,400,000	0	33,750,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
Total for MASON county				PL					
				DN		1,560,000			
				RW			1,580,000	1,580,000	
				UT			1,820,000	1,820,000	
				CN					66,200,000
				Total Amounts:		1,560,000	3,400,000	3,400,000	66,200,000
MCCRACKEN	115.1	US-60	PADUCAH-WICKLIFFE RD: IMPROVE US-60 FROM BETHEL CHURCH ROAD TO KY-1154 (MARTIN MARIETTA) (04CCR) (TO BE LET WITH 1-115.00). (10CCR)(12CCR)	PL					
				DN					
				RW					
				UT	NH		2,710,000		
				CN					
				Project Cost:		0	2,710,000	0	0
MCCRACKEN	152	US-62	MAJOR WIDENING OF US-62 FROM KY-998 TO PADUCAH INFORMATION AGE PARK. (12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	5,740,000			
				Project Cost:		5,740,000	0	0	0
MCCRACKEN	153	KY-1286	IMPROVE KY-1286 (FRIENDSHIP ROAD) FROM MP 3.6 TO MP 6.4 IN PADUCAH. (PRELIMINARY ENGINEERING) (12CCR)(14CCR)(16CCN)	PL					
				DN					
				RW					
				UT	SPP				2,310,000
				CN	SPP				10,000,000
				Project Cost:		0	0	0	12,310,000
MCCRACKEN	8702	KY-305	NEW ACCESS ROAD FROM KY-305 NEAR KY-998, EXTENDING WEST TO THE OHIO RIVER MEGAPARK. (2-LANE INITIAL, 4-LANE ULTIMATE) (12CCN)(14CCR)	PL					
				DN					
				RW	SPP	4,200,000			
				UT	SPP			3,250,000	
				CN	SPP				16,230,000
				Project Cost:		4,200,000	0	3,250,000	16,230,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
MCCRACKEN	20017	I-24	ADDRESS PAVEMENT CONDITION OF I-024 BOTH DIRECTION(S) FROM MILEPOINT 16.172 TO MILEPOINT 17.32	PL DN RW UT CN	PM			100,000 1,000,000	
Project Cost:						0	0	1,100,000	0
MCCRACKEN	20031	US-60	ADDRESS PAVEMENT CONDITION ON US-60 FROM MILEPOINT 2.22 TO MILEPOINT 7.70	PL DN RW UT CN	PM		853,000		
Project Cost:						0	853,000	0	0
Total for MCCRACKEN county				PL DN RW UT CN		4,200,000	2,710,000	3,250,000	2,310,000
Total Amounts:						5,740,000	853,000	1,000,000	26,230,000
						9,940,000	3,563,000	4,350,000	28,540,000
MCCREARY	261.32	KY-92	IMPROVE KY-92 FROM WEST OF KY-592 TO EAST OF THE WHITLEY/MCCREARY COUNTY LINE (SECTION 2).(2014BOP)(SAME AS 11-184.20)	PL DN RW UT CN	STP	9,000,000			
Project Cost:						9,000,000	0	0	0
Total for MCCREARY county				PL DN RW UT CN		9,000,000			
Total Amounts:						9,000,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
MEADE	8702	KY-79	RECONSTRUCT KY 79 FROM KY 428 TO KY 144. (12CCN)(14CCR)	PL					
				DN	SPP	1,040,000			
				RW	SPP			3,250,000	
				UT	SPP				1,770,000
				CN	SPP				11,410,000
			Project Cost:			<u>1,040,000</u>	<u>0</u>	<u>3,250,000</u>	<u>13,180,000</u>
MEADE	8705	KY-79	RECONSTRUCT KY 79 FROM KY 144 TO KY 1051. (12CCN)(14CCR)	PL					
				DN					
				RW					
				UT	SPP	2,030,000			
				CN	SPP			13,530,000	
			Project Cost:			<u>2,030,000</u>	<u>0</u>	<u>13,530,000</u>	<u>0</u>
Total for MEADE county				PL					
				DN		1,040,000			
				RW				3,250,000	
				UT		2,030,000			1,770,000
				CN				13,530,000	11,410,000
			Total Amounts:			<u>3,070,000</u>	<u>0</u>	<u>16,780,000</u>	<u>13,180,000</u>
MENIFEE	8802	US-460	IMPROVE SAFETY AND GEOMETRICS ON US-460 FROM THE END OF ROTHWELL HILL	PL					
			IMPROVEMENTS TO THE BRIDGE OVER BEAVER CREEK. (14CCN)(16CCR)	DN					
				RW					
				UT					
				CN	SPP	6,020,000			
			Project Cost:			<u>6,020,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
MENIFEE	8802.01	US-460	IMPROVE SAFETY AND GEOMETRICS ON US-460 FROM THE END OF ROTHWELL HILL	PL					
			IMPROVEMENTS TO THE BRIDGE OVER BEAVER CREEK. (14CCN)(16CCR)	DN					
				RW					
				UT					
				CN	SPP		6,020,000		
			Project Cost:			<u>0</u>	<u>6,020,000</u>	<u>0</u>	<u>0</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
Total for MENIFEE county				PL					
				DN					
				RW					
				UT					
				CN		6,020,000	6,020,000		
				Total Amounts:		6,020,000	6,020,000	0	0
METCALFE	8706	US-68	SPOT IMPROVEMENTS ON US-68 FROM THE CUMBERLAND PARKWAY TO THE GREEN/METCALFE COUNTY LINE.(12CCN)	PL					
				DN					
				RW	STP	775,000			
				UT	STP		970,000		
				CN	STP			8,650,000	
				Project Cost:		775,000	970,000	8,650,000	0
METCALFE	8859	KY-163	RECONSTRUCT KY 163 AS A NEW ROUTE ON THE WEST SIDE OF EDMONTON FROM KY 163 AT GARY BELL RD (MP 10.0) S OF EDMONTON, CROSSING US 68 (STOCKTON ST) 2000 FT WEST OF THE COURTHOUSE SQ, TO US 68	PL					
				DN					
				RW	SPP	3,000,000			
				UT	SPP		2,190,000		
				CN	SPP			11,945,000	
				Project Cost:		3,000,000	2,190,000	11,945,000	0
METCALFE	8955	KY-163	IMPROVE HIGHWAY SAFETY AND SYSTEMS MOBILITY IN THE KY 163 CORRIDOR BETWEEN KY 90 (MP 2.907) AND THE PROPOSED WEST EDMONTON BYPASS (MP 9.777)	PL					
				DN	SPP	2,500,000			
				RW					
				UT					
				CN					
				Project Cost:		2,500,000	0	0	0
METCALFE	20013	LN-9008	ADDRESS PAVEMENT CONDITION OF LOUIE B. NUNN CUMBERLAND PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 22.357 TO MILEPOINT 36.16	PL					
				DN	PM	1,100,000			
				RW					
				UT					
				CN	PM	11,000,000			
				Project Cost:		12,100,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for METCALFE county				PL					
				DN		3,600,000			
				RW		3,775,000			
				UT			3,160,000		
				CN		11,000,000		20,595,000	
				Total Amounts:		18,375,000	3,160,000	20,595,000	0
MONROE	128.12	KY-214	OPERATION OF TURKEY NECK BEND FERRY FOR FY 2021.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	444,000			
				Project Cost:		444,000	0	0	0
MONROE	128.13	KY-214	OPERATION OF TURKEY NECK BEND FERRY FOR FY 2022.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP		444,000		
				Project Cost:		0	444,000	0	0
MONROE	128.14	KY-214	OPERATION OF TURKEY NECK BEND FERRY FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	SPP			444,000	
				Project Cost:		0	0	444,000	0
MONROE	128.15	KY-214	OPERATION OF TURKEY NECK BEND FERRY FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	SPP				444,000
				Project Cost:		0	0	0	444,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
MONROE	80003	KY-100	REPLACE BRIDGE ON KY-100 BETWEEN MP 14.7 AND 14.9	PL DN RW UT CN	SPP	700,000			
			Project Cost:			700,000	0	0	0
Total for MONROE county				PL DN RW UT CN		1,144,000	444,000	444,000	444,000
			Total Amounts:			1,144,000	444,000	444,000	444,000
MONTGOMERY	8810	US-60	WIDEN EXISTING PAVEMENT AND IMPROVE VERTICAL AND HORIZONTAL CURVES FROM EXISTING MOUNT STERLING BYPASS (KY 686) TO 500' WEST OF BENTBROOK SUBDIVISION. ADD FULL WIDTH SHOULDERS AND A CENTER	PL DN RW UT CN	SPP SPP SPP		1,500,000 1,500,000		8,000,000
			Project Cost:			0	3,000,000	0	8,000,000
MONTGOMERY	20018	I-64	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 104.26 TO MILEPOINT 112.1	PL DN RW UT CN	PM PM				650,000 6,500,000
			Project Cost:			0	0	0	7,150,000
Total for MONTGOMERY county				PL DN RW UT CN			1,500,000 1,500,000		650,000 14,500,000
			Total Amounts:			0	3,000,000	0	15,150,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
MORGAN	8804	KY-2498	IMPROVE KY-2498 FROM US-460 TO THE ARH HOSPITAL. (14CCN)(16CCN)	PL					
				DN					
				RW	SPP		1,580,000		
				UT	SPP			350,000	
				CN	SPP				2,560,000
			Project Cost:			0	1,580,000	350,000	2,560,000
MORGAN	20014	KY-7	ADDRESS PAVEMENT CONDITION ON KY-7 FROM MILEPOINT 3.90 TO MILEPOINT 8.14	PL					
				DN					
				RW					
				UT					
				CN	PM		1,207,000		
			Project Cost:			0	1,207,000	0	0
MORGAN	20015	KY-519	ADDRESS PAVEMENT CONDITION ON KY-519 FROM MILEPOINT 0.00 TO MILEPOINT 3.94	PL					
				DN					
				RW					
				UT					
				CN	PM			1,981,000	
			Project Cost:			0	0	1,981,000	0
Total for MORGAN county				PL					
				DN					
				RW			1,580,000		
				UT				350,000	
				CN			1,207,000	1,981,000	2,560,000
Total Amounts:						0	2,787,000	2,331,000	2,560,000
MUHLENBERG	8802	KY-181	WIDEN KY-181 BY FOUR FEET ON EACH SIDE FROM INTERSECTION 601 TO WENDELL FORD CENTER. (14CCN)	PL					
				DN					
				RW					
				UT	SPP	1,820,000			
				CN	SPP		2,710,000		
			Project Cost:			1,820,000	2,710,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
MUHLENBERG	8803	KY-2533	STRAIGHTEN DEAN ROAD INTERSECTION OF 189 BYPASS TO KY 181 NORTH NEAR THE INTERSECTION WITH THE WKY PARKWAY, WENDELL FORD NATIONAL GUARD CENTER, AND JOB CORP. (14CCN)	PL DN RW UT CN	SPP SPP	820,000	4,500,000		
Project Cost:						820,000	4,500,000	0	0
MUHLENBERG	20036	WK-9001	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 43.424 TO MILEPOINT 45.95	PL DN RW UT CN	PM PM			200,000	
Project Cost:						0	0	2,000,000	0
Total for MUHLENBERG county				PL DN RW UT CN		2,640,000	7,210,000	2,000,000	
Total Amounts:						2,640,000	7,210,000	2,200,000	0
NELSON	396.12	US-150	IMPROVE SAFETY, MOBILITY, AND GEOMETRICS ON US-150 FROM THE BLUEGRASS PARKWAY TO THE NELSON/WASHINGTON COUNTY LINE. (2016BOP)	PL DN RW UT CN	STP STP	600,000			2,450,000
Project Cost:						600,000	0	0	2,450,000
NELSON	8309.2	US-150	IMPROVE US-150 FROM WEST OF KY-245 THROUGH THE BLUEGRASS PARKWAY INTERCHANGE TO EAST OF LESLIE BALLARD LN (CR 1110). (06CCN)(2006BOPC)(12CCR)(14CCR) (16CCR)	PL DN RW UT CN	SPP	4,800,000			
Project Cost:						4,800,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
NELSON	20022	BG-9002	ADDRESS PAVEMENT CONDITION OF MARTHA LAYNE COLLINS BLUEGRASS PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 24.24 TO MILEPOINT 35.15	PL DN RW UT CN	PM		875,000		
				Project Cost:		0	9,625,000	0	0
NELSON	20030	KY-49	ADDRESS PAVEMENT CONDITION ON KY-49 FROM MILEPOINT 0.00 TO MILEPOINT 4.52	PL DN RW UT CN	PM		484,000		
				Project Cost:		0	484,000	0	0
Total for NELSON county				PL DN RW UT CN		600,000	875,000		
				Total Amounts:		5,400,000	10,109,000	0	2,450,000
NICHOLAS	205	KY-36	IMPROVE THE KY-36/KY-32 INTERSECTION NEAR THE NICHOLAS COUNTY SCHOOL PROPERTY. (12CCR)(16CCR)	PL DN RW UT CN	STP STP				1,380,000 890,000
				Project Cost:		0	0	0	2,270,000
NICHOLAS	310.3	US-68	PARIS-MAYSVILLE ROAD; RECONSTRUCT FROM MILLERSBURG TO KY-1455 AT CARLISLE (SECTION 3).(08CCR)(12CCR)(14CCR)	PL DN RW UT CN	NH	17,000,000			
				Project Cost:		17,000,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
NICHOLAS	8811	KY-36	RECONSTRUCT KY 36/KY 928 INTERSECTION. (14CCN)	PL					
				DN					
				RW	SPP	200,000			
				UT	SPP	150,000			
				CN	SPP			1,400,000	
			Project Cost:			<u>350,000</u>	<u>0</u>	<u>1,400,000</u>	<u>0</u>
NICHOLAS	8812	KY-32	SAFETY IMPROVEMENTS ALONG KY 32 FROM LAKE ROAD (MP 9.5) TO SCRUBGRASS CREEK (MP 12.5) TO CORRECT HORIZONTAL, VERTICAL, PAVEMENT WITH DEFICIENCIES. (14CCN)	PL	SPP		100,000		
				DN					
				RW					
				UT					
				CN					
			Project Cost:			<u>0</u>	<u>100,000</u>	<u>0</u>	<u>0</u>
NICHOLAS	8951	CR-1010	REPLACE BRIDGE ON ABNER'S MILL ROAD (CR 1010) 2.4 MILES NORTH OF KY 32.	PL					
				DN					
				RW					
				UT					
				CN	BR	100,000			
			Project Cost:			<u>100,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total for NICHOLAS county				PL			100,000		
				DN					
				RW		200,000			1,380,000
				UT		150,000			890,000
				CN		<u>17,100,000</u>		<u>1,400,000</u>	
			Total Amounts:			<u>17,450,000</u>	<u>100,000</u>	<u>1,400,000</u>	<u>2,270,000</u>
OHIO	2092.2	WN-9007	I-65 SPUR CORRIDOR; RECONSTRUCT THE EXISTING NATCHER PARKWAY/KY-69 INTERCHANGE (EXIT 50) IN OHIO COUNTY. (2016BOP)	PL					
				DN					
				RW					
				UT					
				CN	NH	8,700,000			
			Project Cost:			<u>8,700,000</u>	<u>0</u>	<u>0</u>	<u>0</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
OHIO	8812	KY-136	REPLACE, IMPROVE ALIGNMENTS AND APPROACHES, AND ADDRESS SAFETY ISSUES WITH BRIDGES ON KY-136 FROM KY-56 IN MCLEAN COUNTY TO US-231 IN OHIO COUNTY. (14CCN)	PL DN RW UT CN	 SPP SPP SPP	 450,000 1,250,000			6,540,000
			Project Cost:			0	1,700,000	0	6,540,000
OHIO	8951	KY-54	IMPROVE SAFETY ON KY 54 BY UPGRADING MP 7.0 TO MP 8.0 TO THREE LANES INCLUDING CURB AND GUTTER AND ADDRESSING TWO SHARP TURNS	PL DN RW UT CN	 SPP SPP SPP SPP	750,000		1,000,000	2,000,000 7,000,000
			Project Cost:			750,000	0	1,000,000	9,000,000
OHIO	20038	US-62	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	 PM PM		500,000 5,000,000		0
			Project Cost:			0	5,500,000	0	0
OHIO	20049	KY-136	ADDRESS PAVEMENT CONDITION ON KY-136 FROM MILEPOINT 0.00 TO MILEPOINT 9.60	PL DN RW UT CN	 PM		1,177,000		0
			Project Cost:			0	1,177,000	0	0
Total for OHIO county				PL DN RW UT CN		750,000 450,000 1,250,000 8,700,000	500,000 450,000 1,250,000 6,177,000	1,000,000	2,000,000 13,540,000
				Total Amounts:		9,450,000	8,377,000	1,000,000	15,540,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
OLDHAM	367.2	-0	EXTENSION OF OLD HENRY ROAD EAST TO ASH AVENUE (KY362). (12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	10,000,000			
			Project Cost:			10,000,000	0	0	0
OLDHAM	367.21	-0	EXTENSION OF OLD HENRY ROAD EAST TO ASH AVENUE (KY362). (12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP		8,500,000		
			Project Cost:			0	8,500,000	0	0
OLDHAM	410	-0	INTER-URBAN GREENWAY: CONSTRUCT A NON-MOTORIZED CORRIDOR FROM LAGRANGE TO JEFFERSON COUNTY LINE. (LOU T.I.P.) (LOCAL MATCH)(ALL WORK BY OLDHAM COUNTY)(2002BOPC) (FUNDING SUBJECT TO	PL					
				DN	SLO	500,000			
				RW					
				UT					
				CN					
			Project Cost:			500,000	0	0	0
OLDHAM	483.1	I-71	WIDEN I-71 FROM FOUR TO SIX LANES FROM KY-329 (MP 14.1) TO KY-393 (MP 18.0). (16CCN)	PL					
				DN					
				RW	NH		1,900,000		
				UT	NH		1,700,000		
				CN	NH				24,000,000
			Project Cost:			0	3,600,000	0	24,000,000
OLDHAM	483.2	I-71	WIDEN I-71 FROM FOUR TO SIX LANES FROM KY-393 (MP 18.0) TO KY-53 (MP 22.4). (16CCN)	PL					
				DN	NH			2,750,000	
				RW					
				UT					
				CN					
			Project Cost:			0	0	2,750,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
OLDHAM	483.21	I-71	WIDEN I-71 FROM FOUR TO SIX LANES FROM KY-393 (MP 18.0) TO KY-53 (MP 22.4), INCLUDING A NEW INTERCHANGE AT MP 20.6. (16CCN)	PL DN RW UT CN	NH				2,750,000
Project Cost:						<u>0</u>	<u>0</u>	<u>0</u>	<u>2,750,000</u>
OLDHAM	483.31	I-71	CONSTRUCT NEW I-71 INTERCHANGE BETWEEN KY-393 AND KY-53 TO RELIEVE CONGESTION IN LAGRANGE.	PL DN RW UT CN	NH	<u>6,000,000</u>			
Project Cost:						<u>6,000,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
OLDHAM	8852	KY-53	DESIGN FOR IMPROVING KY-53 FROM ZHALE SMITH ROAD TO KY-22 (TOTAL 3.2 MILES). (14CCN)	PL DN RW UT CN	SPP	<u>2,000,000</u>			
Project Cost:						<u>2,000,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
OLDHAM	80050	KY 329	CONSTRUCT A TURN LANE ON KY 329 BYPASS AT DOVEFIELD DRIVE	PL DN RW UT CN	SPP		<u>300,000</u>		
Project Cost:						<u>0</u>	<u>300,000</u>	<u>0</u>	<u>0</u>
Total for OLDHAM county				PL DN RW UT CN		<u>16,000,000</u>	<u>8,800,000</u>		<u>24,000,000</u>
Total Amounts:						<u>18,500,000</u>	<u>12,400,000</u>	<u>2,750,000</u>	<u>26,750,000</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
OWEN	198.01	KY-22	IMPROVE SAFETY ON KY-22 FROM KY-227 TO KY-845. (06CCR)(08CCN)(12CCR)(14CCR)	PL DN RW UT CN	SPP	3,500,000			
			Project Cost:			3,500,000	0	0	0
OWEN	20052	KY-22	ADDRESS PAVEMENT CONDITION ON KY-22 FROM MILEPOINT 11.33 TO MILEPOINT 18.56	PL DN RW UT CN	PM		947,000		
			Project Cost:			0	947,000	0	0
Total for OWEN county				PL DN RW UT CN		3,500,000	947,000		
				Total Amounts:		3,500,000	947,000	0	0
OWSLEY	279.62	KY-30	IMPROVE KY-30 FROM KY-847 IN OWSLEY COUNTY TO JACKSON COUNTY LINE.(LET W/ JACKSON CO. SECTION UNDER 11-278.30)(SEE 10-279.60 FOR PE & ENVIR)(AR/W)(14CCR) (16CCR)	PL DN RW UT CN	STP	14,500,000			
			Project Cost:			14,500,000	0	0	0
Total for OWSLEY county				PL DN RW UT CN		14,500,000			
				Total Amounts:		14,500,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
PERRY	209	KY-476	IMPROVE KY-476 FROM KY-15X IN WALKERTOWN TO NORTH OF WALKER CORNETT ROAD IN WABACO.	PL					
				DN	STP	600,000			
				RW					
				UT					
				CN					
				Project Cost:		<u>600,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
PERRY	8903	HR-9006	NEW INTERCHANGE OFF OF A NEW EXIT 55 HAL ROGERS PARKWAY	PL					
				DN					
				RW					
				UT					
				CN	STP	1,632,000			
				Project Cost:		<u>1,632,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
PERRY	8906	KY-80	SAFETY IMPROVEMENTS ON KY-80 FROM LESLIE COUNTY LINE TO KY-451. (16CCN)	PL					
				DN					
				RW					
				UT					
				CN	STP		5,400,000		
				Project Cost:		<u>0</u>	<u>5,400,000</u>	<u>0</u>	<u>0</u>
PERRY	20002	HR-9006	ADDRESS PAVEMENT CONDITION OF HAL ROGERS DANIEL BOONE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 55.966 TO MILEPOINT 57.166	PL					
				DN	PM				50,000
				RW					
				UT					
				CN	PM				500,000
				Project Cost:		<u>0</u>	<u>0</u>	<u>0</u>	<u>550,000</u>
Total for PERRY county				PL					
				DN		600,000			50,000
				RW					
				UT					
				CN		1,632,000	5,400,000		500,000
				Total Amounts:		<u>2,232,000</u>	<u>5,400,000</u>	<u>0</u>	<u>550,000</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
PIKE	198	KY-194	IMPROVE KY 194 FROM US 119 RAMP NEAR SMITH FARMS BOTTOM (CR 1458) TO NEAR DESKINS BRANCH CULVERT	PL					
				DN					
				RW	SPP	2,100,000			
				UT	SPP	1,560,000			
				CN	SPP			6,760,000	
				Project Cost:		3,660,000	0	6,760,000	0
PIKE	198.01	KY-194	IMPROVE KY-194 FROM US-119 RAMP NEAR SMITH FARMS BOTTOM (CR-1458) TO NEAR DESKINS BRANCH CULVERT	PL					
				DN					
				RW					
				UT					
				CN	SPP				6,760,000
				Project Cost:		0	0	0	6,760,000
PIKE	263.67	US-460	PIKEVILLE TO VA. STATE LINE: IMPROVE US 460/KY 80 FROM DUNLEARY HOLLOW TO KY 80 AT BEAVER CREEK (SECTION 6C) BRIDGE ONLY.(14CCN)(16CCR)	PL					
				DN					
				RW					
				UT					
				CN	NH	10,000,000			
				Project Cost:		10,000,000	0	0	0
PIKE	263.69	US-460	PIKEVILLE TO VA. STATE LINE; US-460/KY-80 FROM KY-195 TO DUNLEARY HOLLOW. (SURFACING FOR SECTIONS 6A & 6B) (2000BOP)(14CCN)	PL					
				DN					
				RW					
				UT					
				CN	NH				9,000,000
				Project Cost:		0	0	0	9,000,000
PIKE	263.95	US-460	PIKEVILLE TO VA. STATE LINE: IMPROVE US 460/KY 80 FROM DUNLEARY HOLLOW TO KY 80 AT BEAVER CREEK (SECTION 6C) BRIDGE ONLY.(14CCN)(16CCR)(ADDITIONAL FUNDING FOR C PHASE UNDER 12-263.67)	PL					
				DN					
				RW					
				UT					
				CN	NH		10,000,000		
				Project Cost:		0	10,000,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
PIKE	263.96	US-460	PIKEVILLE TO VA. STATE LINE: IMPROVE US 460/KY 80 FROM DUNLEARY HOLLOW TO KY 80 AT BEAVER CREEK (SECTION 6C) BRIDGE ONLY.(14CCN)(16CCR)(ADDITIONAL FUNDING FOR C PHASE UNDER 12-263.67)	PL DN RW UT CN	NH			10,000,000	
			Project Cost:			0	0	10,000,000	0
PIKE	263.97	US-460	PIKEVILLE TO VA. STATE LINE: IMPROVE US 460/KY 80 FROM DUNLEARY HOLLOW TO KY 80 AT BEAVER CREEK (SECTION 6C) BRIDGE ONLY.(14CCN)(16CCR)(ADDITIONAL FUNDING FOR C PHASE UNDER 12-263.67)	PL DN RW UT CN	NH				10,000,000
			Project Cost:			0	0	0	10,000,000
PIKE	346	US-460	IMPROVE SAFETY AND REDUCE CONGESTION AT THE US-460 AND KY-1460 INTERSECTION.	PL DN RW UT CN	NH NH NH NH	240,000	400,000 160,000		1,470,000
			Project Cost:			240,000	560,000	0	1,470,000
PIKE	8705	CS-1215	IMPROVE CONNECTIVITY BETWEEN THOMPSON ROAD AND US-23 AT STONECOAL.(12CCN)(14CCR)(16CCR)	PL DN RW UT CN	SPP SPP				600,000 5,290,000
			Project Cost:			0	0	0	5,890,000
PIKE	20003	US-119	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM PM	175,000			
			Project Cost:			1,750,000 1,925,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for PIKE county				PL					
				DN		415,000			
				RW		2,100,000	400,000		
				UT		1,560,000	160,000		600,000
				CN		11,750,000	10,000,000	16,760,000	32,520,000
				Total Amounts:		15,825,000	10,560,000	16,760,000	33,120,000
POWELL	163.01	KY-213	IMPROVE SAFETY AND GEOMETRICS, AND REDUCE CONGESTION KY-213 FROM KY-11 TO BOTTOM OF MOUNTAIN. (12CCR)(16CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP	6,000,000			
				Project Cost:		6,000,000	0	0	0
POWELL	210	KY-213	IMPROVE SAFETY AND LEVEL OF SERVICE ON KY-213 IN POWELL COUNTY FROM SONS ROAD TO REED COURT.	PL					
				DN	STP			520,000	
				RW					
				UT					
				CN					
				Project Cost:		0	0	520,000	0
POWELL	211	KY-2026	CORRECT FLOODING ISSUES ON KY-2026 FROM KY-11 TO THE RED RIVER IN CLAY CITY.	PL					
				DN					
				RW					
				UT					
				CN	STP	1,100,000			
				Project Cost:		1,100,000	0	0	0
POWELL	20004	KY-9000	ADDRESS PAVEMENT CONDITION OF BERT T. COMBS MOUNTAIN PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 11.91 TO MILEPOINT 19.15	PL					
				DN	PM		580,000		
				RW					
				UT					
				CN	PM		5,800,000		
				Project Cost:		0	6,380,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
POWELL	20005	KY-9000	ADDRESS PAVEMENT CONDITION OF BERT T. COMBS MOUNTAIN PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 19.15 TO MILEPOINT 22.307	PL DN RW UT CN	PM PM			250,000	
				Project Cost:		0	0	2,500,000	0
POWELL	20008	KY-9000	ADDRESS PAVEMENT CONDITION OF BERT T. COMBS MOUNTAIN PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 32.788 TO MILEPOINT 36	PL DN RW UT CN	PM PM			275,000	
				Project Cost:		0	0	2,750,000	0
Total for POWELL county				PL DN RW UT CN			580,000	1,045,000	
				Total Amounts:		7,100,000	5,800,000	5,250,000	0
PULASKI	59.25	KY-461	IMPROVE KY-461 FROM KY-80 TO BUCK CREEK BRIDGE, INCLUDING INTERCHANGE AT KY-80.	PL DN RW UT CN	NH	13,000,000			
				Project Cost:		13,000,000	0	0	0
PULASKI	9010	KY-635	SAFETY PROJECT TO RECONSTRUCT KY 635 TO ELIMINATE AT GRADE RAILROAD CROSSING AND REPLACE WITH RAILROAD SEPARATION CROSSING AT SCIENCE HILL, KENTUCKY IN PULASKI COUNTY. (2016BOP)	PL DN RW UT CN	RRS		6,500,000		
				Project Cost:		0	6,500,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
PULASKI	20008	US-27	ADDRESS PAVEMENT CONDITION ON US-27 FROM MILEPOINT 0.00 TO MILEPOINT 6.78	PL DN RW UT CN	PM		2,708,000		
Project Cost:						0	2,708,000	0	0
Total for PULASKI county				PL DN RW UT CN		13,000,000	9,208,000		
Total Amounts:						13,000,000	9,208,000	0	0
ROBERTSON	8711	KY-616	IMPROVE CURVE ON KY 616 AND IMPROVE ROADWAY FROM THE NEW ROBERTSON COUNTY SCHOOL TO MT OLIVET. (12CCN) (14CCR)	PL DN RW UT CN	SPP	2,820,000			
Project Cost:						2,820,000	0	0	0
ROBERTSON	20053	US-62	ADDRESS PAVEMENT CONDITION ON US-62 FROM MILEPOINT 0.00 TO MILEPOINT 11.00	PL DN RW UT CN	PM		863,000		
Project Cost:						0	863,000	0	0
Total for ROBERTSON county				PL DN RW UT CN		2,820,000	863,000		
Total Amounts:						2,820,000	863,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ROCKCASTLE	8952	KY-461	IMPROVE KY-461 FROM US-150 TO THE EXISTING FOUR LANE APPROACH AT US-25. (16CCN)	PL DN RW UT CN	NH	2,230,000			
				Project Cost:		<u>2,230,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
ROCKCASTLE	8952.01	KY-461	IMPROVE KY-461 FROM US-150 TO THE EXISTING FOUR LANE APPROACH AT US-25. (16CCN)	PL DN RW UT CN	NH NH	1,450,000	1,120,000		
				Project Cost:		<u>1,450,000</u>	<u>1,120,000</u>	<u>0</u>	<u>0</u>
Total for ROCKCASTLE county				PL DN RW UT CN		1,450,000 2,230,000	1,120,000		
				Total Amounts:		<u>3,680,000</u>	<u>1,120,000</u>	<u>0</u>	<u>0</u>
ROWAN	204	KY-32	IMPROVE KY-32 FROM PARK HILLS DRIVE TO VIKING DRIVE NORTH. (12CCR)	PL DN RW UT CN	SPP SPP	4,210,000 10,000,000			
				Project Cost:		<u>14,210,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
ROWAN	204.01	KY-32	IMPROVE KY-32 FROM PARK HILLS DRIVE TO VIKING DRIVE NORTH. (12CCR)	PL DN RW UT CN	SPP	10,000,000			
				Project Cost:		<u>10,000,000</u>	<u>0</u>	<u>0</u>	<u>0</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ROWAN	1093	CR-1140	REPLACE BRIDGE OVER BULL FORK ON HORSEMAN CEMETERY ROAD (CR 1140) AT JCT WITH BULLFORK ROAD (CR 1222) (103C00108N) (SR=32.5)(EBRP)	PL DN RW UT CN	BR BR BR BR	350,000	50,000 50,000 400,000		
			Project Cost:			350,000	500,000	0	0
ROWAN	8401	US-60	RECONSTRUCT US-60 FROM WEST OF GLENWOOD HOLLOW ROAD TO EAST OF KY-3296. THE PROJECT SHALL INCLUDE 12' LANES, WIDE PAVED SHOULDERS, UNOBSTRUCTED CLEAR ZONES, FLATTER	PL DN RW UT CN	SPP SPP SPP	830,000	700,000		5,500,000
			Project Cost:			830,000	700,000	0	5,500,000
ROWAN	8406	KY-377	IMPROVE SAFETY AND CONNECTIVITY AND REDUCE CONGESTION ON KY-377 FROM KY-32 TO NORTH OF KY-799. (08CCN)(10CCR)(16CCR)	PL DN RW UT CN	STP STP	7,700,000	9,100,000		
			Project Cost:			7,700,000	9,100,000	0	0
ROWAN	8913	US-60	PROVIDE WEST TURN LANES ON US 60 AT SUNNYBROOK.	PL DN RW UT CN	SPP SPP SPP SPP	300,000	250,000 400,000		2,500,000
			Project Cost:			300,000	650,000	0	2,500,000
ROWAN	20012	I-64	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 128.96 TO MILEPOINT 134.75	PL DN RW UT CN	PM PM			475,000	
			Project Cost:			0	0	4,750,000 5,225,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ROWAN	20014	I-64	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 141.5 TO MILEPOINT 147.95	PL DN RW UT CN	PM		525,000		
				Project Cost:		0	5,775,000	0	0
Total for ROWAN county				PL DN RW UT CN		650,000 830,000 11,910,000 20,000,000	525,000 300,000 1,150,000 14,750,000	475,000	8,000,000
				Total Amounts:		33,390,000	16,725,000	5,225,000	8,000,000
RUSSELL	8601.24	US-127	RELOCATE US-127 FROM EAST OF THE KY-1730 AND MANNTOWN RD INTERSECTION, AND EXTENDING NORTHERLY TO NORTH BANK OF CUMBERLAND RIVER (SEE 8-108&8-115 FOR PE/PH.2)(12CCR)(14CCR)	PL DN RW UT CN	NH	8,280,000			
				Project Cost:		8,280,000	0	0	0
RUSSELL	20007	LN-9008	ADDRESS PAVEMENT CONDITION OF LOUIE B. NUNN CUMBERLAND PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 62.544 TO MILEPOINT 72.087	PL DN RW UT CN	PM			775,000	
				Project Cost:	PM	0	0	7,750,000	0
								8,525,000	
RUSSELL	20009	US-127	ADDRESS PAVEMENT CONDITION ON US-127 FROM MILEPOINT 19.03 TO MILEPOINT 26.21	PL DN RW UT CN	PM		1,549,000		
				Project Cost:		0	1,549,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for RUSSELL county				PL					
				DN				775,000	
				RW					
				UT					
				CN		8,280,000	1,549,000	7,750,000	
			Total Amounts:			8,280,000	1,549,000	8,525,000	0
SCOTT	102.51	-0	GEORGETOWN NORTHWEST BYPASS: IMPROVE CONNECTIVITY AND MOBILITY NORTHWEST AROUND GEORGETOWN FROM KY-32 TO I-75. (04CCR)(2004BOPC)(SEE 7-102.01 FOR "HPP" COMPONENT)(10CCR)(12CCR)(16CCR)	PL					
				DN					
				RW					
				UT					
				CN	STP	10,000,000			
			Project Cost:			10,000,000	0	0	0
SCOTT	20021	I-75	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 138.424 TO MILEPOINT 143.24	PL					
				DN	PM				575,000
				RW					
				UT					
				CN	PM				5,750,000
			Project Cost:			0	0	0	6,325,000
Total for SCOTT county				PL					
				DN					575,000
				RW					
				UT					
				CN		10,000,000			5,750,000
			Total Amounts:			10,000,000	0	0	6,325,000
SHELBY	65.4	I-64	WIDEN I-64 TO 6-LANES FROM 0.458 MILE EAST OF THE KY-55 INTERCHANGE TO THE KY-1790 UNDERPASS. (2006BOPC)	PL					
				DN					
				RW					
				UT					
				CN	NH		19,800,000		
			Project Cost:			0	19,800,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
SHELBY	65.41	I-64	WIDEN I-64 TO 6-LANES FROM 0.458 MILE EAST OF THE KY-55 INTERCHANGE TO THE KY-1790 UNDERPASS. (2006BOPC)	PL DN RW UT CN	NH			19,800,000	
				Project Cost:		0	0	19,800,000	0
SHELBY	65.42	I-64	WIDEN I-64 TO 6-LANES FROM 0.458 MILE EAST OF THE KY 55 INTERCHANGE TO THE KY 1790 UNDERPASS. (2006BOPC)	PL DN RW UT CN	NH				19,800,000
				Project Cost:		0	0	0	19,800,000
SHELBY	2035.4	I-64	WIDEN I-64 TO 6 LANES FROM KY-395 TO KY-151. (2004BOPC)(DESIGN FUNDING COVERS 5-2035.70 SECTION ALSO)	PL DN RW UT CN	NH NH NH	100,000 100,000		16,330,000	
				Project Cost:		200,000	0	16,330,000	0
SHELBY	2035.41	I-64	WIDEN I-64 TO 6 LANES FROM KY-395 TO KY-151. (2004BOPC)(DESIGN FUNDING COVERS 5-2035.70 SECTION ALSO)(ADDITIONAL FUNDING FOR C PHASE)	PL DN RW UT CN	NH				16,330,000
				Project Cost:		0	0	0	16,330,000
SHELBY	8713	US-60	CONSTRUCT A THIRD LANE ON US-60 FROM THE MASONIC HOME TO ROCKET LANE. (12CCN) (14CCR)	PL DN RW UT CN	SPP	2,170,000			
				Project Cost:		2,170,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
SHELBY	20033	I-64	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 38.18 (38 NON-CARDINAL) TO MILEPOINT 43.33 (43.892 NON-CARDINAL)	PL DN RW UT CN	PM		775,000 7,750,000		
			Project Cost:			0	8,525,000	0	0
SHELBY	20040	KY-53	ADDRESS PAVEMENT CONDITION ON KY-53 FROM MILEPOINT 8.01 TO MILEPOINT 13.79	PL DN RW UT CN	PM			943,000	
			Project Cost:			0	0	943,000	0
Total for SHELBY county				PL DN RW UT CN			775,000		
			Total Amounts:			100,000 100,000 2,170,000 2,370,000	27,550,000 37,073,000 36,130,000		
SIMPSON	8855	KY-1008	IMPROVE KY-1008 FROM KY-73 TO NORTH FRANKLIN STREET. (14CCN)	PL DN RW UT CN	SPP		1,880,000 560,000 3,200,000		
			Project Cost:			0	2,440,000	3,200,000	0
SIMPSON	8855.01	KY-1008	IMPROVE KY-1008 FROM KY-73 TO NORTH FRANKLIN STREET. (14CCN)	PL DN RW UT CN	SPP			1,670,000	
			Project Cost:			0	0	1,670,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
SIMPSON	8856	US-31	IMPROVE US-31W FROM KY-1008 TO KY-621. (14CCN)(16CCR)	PL					
				DN	STP	1,000,000			
				RW	STP			2,000,000	
				UT					
				CN					
			Project Cost:			<u>1,000,000</u>	<u>0</u>	<u>2,000,000</u>	<u>0</u>
SIMPSON	20014	I-65	ADDRESS PAVEMENT CONDITION OF I-065 BOTH DIRECTION(S) FROM MILEPOINT 0 TO MILEPOINT 13.71	PL					
				DN	PM				1,650,000
				RW					
				UT					
				CN	PM				16,500,000
			Project Cost:			<u>0</u>	<u>0</u>	<u>0</u>	<u>18,150,000</u>
Total for SIMPSON county				PL					
				DN		1,000,000			1,650,000
				RW			1,880,000	2,000,000	
				UT			560,000	1,670,000	
				CN				3,200,000	16,500,000
			Total Amounts:			<u>1,000,000</u>	<u>2,440,000</u>	<u>6,870,000</u>	<u>18,150,000</u>
SPENCER	8954	KY-155	CONSTRUCT A 2+1 ROAD ON KY 55/155 (TAYLORSVILLE ROAD) IN SPENCER COUNTY AND KY 155 (TAYLORSVILLE LAKE ROAD) IN JEFFERSON COUNTY BY ADDING A CONTINUOUS THIRD LANE THAT SERVES AS AN	PL					
				DN	SPP				4,750,000
				RW					
				UT					
				CN					
			Project Cost:			<u>0</u>	<u>0</u>	<u>0</u>	<u>4,750,000</u>
SPENCER	8955	KY-44	IMPROVE SAFETY AND ADDRESS GEOMETRIC DEFICIENCIES ALONG KY-44 NEAR DUTCHMAN CREEK ROAD. (16CCN)	PL					
				DN	STP		230,000		
				RW					
				UT					
				CN					
			Project Cost:			<u>0</u>	<u>230,000</u>	<u>0</u>	<u>0</u>

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
SPENCER	20041	KY-44	ADDRESS PAVEMENT CONDITION ON KY-44 FROM MILEPOINT 9.93 TO MILEPOINT 14.89	PL DN RW UT CN	PM			808,000	
Project Cost:						0	0	808,000	0
Total for SPENCER county				PL DN RW UT CN			230,000		4,750,000
Total Amounts:						0	230,000	808,000	4,750,000
TAYLOR	142.2	KY-555	HEARTLAND PARKWAY: IMPROVE MOBILITY AND CONNECTIVITY VIA NEW CAMPBELLSVILLE BYPASS FROM KY-55 SOUTH OF CAMPBELLSVILLE TO KY-70. SECTION 1. (2010BOP)(14CCR)(16CCR)	PL DN RW UT CN	NH		7,600,000		
Project Cost:						0	7,600,000	0	0
TAYLOR	443	KY-70	IMPROVE SAFETY, ACCESS, GEOMETRICS AND DRAINAGE ON KY-70 IN CAMPBELLSVILLE FROM US-68 TO COUNTRY VIEW COURT (CS-1305)	PL DN RW UT CN	STP				700,000
Project Cost:						0	0	0	700,000
Total for TAYLOR county				PL DN RW UT CN			7,600,000		700,000
Total Amounts:						0	7,600,000	0	700,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
TODD	8811	KY-181	RECONSTRUCT KY-181 (ELKTON ROAD) FROM US-79 (MP 0.000) TO NORTH OF INTERSECTION WITH US-41 (MP 0.214) TO INCLUDE A NEW INTERSECTION WITH KY-294. (MP 0.000-0.400) (14CCN)	PL DN RW UT CN	 SPP SPP SPP	 250,000 670,000 		2,600,000	
Project Cost:						920,000	0	2,600,000	0
TODD	80001	US 79	US 79 WIDENING FROM MP 0 TO MP 3	PL DN RW UT CN	 SPP SPP SPP	 2,000,000 3,000,000 	8,000,000		
Project Cost:						5,000,000	8,000,000	0	0
Total for TODD county				PL DN RW UT CN		2,250,000 3,670,000 	8,000,000	2,600,000	
Total Amounts:						5,920,000	8,000,000	2,600,000	0
TRIGG	20020	I-24	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-024 CARDINAL DIRECTION(S) FROM MILEPOINT 57.39 TO MILEPOINT 69.83	PL DN RW UT CN	 PM PM				1,220,000
Project Cost:						0	0	0	12,200,000
									13,420,000
TRIGG	20022	I-24	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-024 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 57.389 TO MILEPOINT 69.389	PL DN RW UT CN	 PM PM				1,220,000
Project Cost:						0	0	0	12,200,000
									13,420,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for TRIGG county				PL					
				DN					2,440,000
				RW					
				UT					
				CN					24,400,000
				Total Amounts:		0	0	0	26,840,000
UNION	8955	US-60	IMPROVE ROADWAY TO REDUCE FLOODING ON	PL					
			US-60 FROM EAST OF HOUSE BRIDGE ROAD	DN					
			(CR-1027) TO UNION/HENDERSON COUNTY LINE.	RW	STP			150,000	
			(16CCN)	UT	STP			250,000	
				CN	STP				2,000,000
				Project Cost:		0	0	400,000	2,000,000
Total for UNION county				PL					
				DN					
				RW				150,000	
				UT				250,000	
				CN					2,000,000
				Total Amounts:		0	0	400,000	2,000,000
WARREN	110.01	KY-185	IMPROVE KY-185 FROM NORTH OF THE	PL					
			JUNCTION WITH KY-263 NEAR RICHARDSVILLE	DN					
			TO THE BUTLER COUNTY LINE. (02CCR)(04CCR)	RW					
			(06CCR)(10CCR)(14CCR)	UT					
				CN	STP	5,000,000			
				Project Cost:		5,000,000	0	0	0
WARREN	199	US-31	IMPROVE US-31W FROM SOUTH OF KY-242 TO	PL					
			DILLARD ROAD.(12CCR)	DN					
				RW					
				UT					
				CN	SPP		2,880,000		
				Project Cost:		0	2,880,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
WARREN	199.01	US-31	IMPROVE US-31W FROM SOUTH OF KY-242 TO DILLARD ROAD.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP			6,730,000	
			Project Cost:			0	0	6,730,000	0
WARREN	199.99	US-31	CONSTRUCT A PEDESTRIAN UNDERPASS UNDER US-31W CONNECTING BUCHANON PARK TRAIL TO CHANEY'S DAIRY BARN.(16CCN)	PL					
				DN	STP		50,000		
				RW					
				UT					
				CN	STP				400,000
			Project Cost:			0	50,000	0	400,000
WARREN	2042.2	WN-9007	I-65 SPUR CORRIDOR: IMPROVE THE NATCHER PARKWAY/US-231 INTERCHANGE (EXIT 9) ON THE WEST SIDE OF BOWLING GREEN. (SEE ITEM NO. 3-202 FOR DESIGN) (2016BOP)	PL					
				DN					
				RW					
				UT					
				CN	NH	8,200,000			
			Project Cost:			8,200,000	0	0	0
WARREN	8702.01	US-231	IMPROVE US-231 FROM PASCOE BLVD. TO NORTH OF CAVE MILL ROAD. (12CCN)	PL					
				DN					
				RW					
				UT					
				CN	NH	870,000			
			Project Cost:			870,000	0	0	0
WARREN	8818	KY-884	THREE SPRINGS ROAD EXTENSION FROM FLEALAND TO THE NATCHER PARKWAY INCLUDING BRIDGE OVER PARKWAY. (14CCN)	PL					
				DN					
				RW					
				UT	SPP	2,800,000			
				CN	SPP			8,930,000	
			Project Cost:			2,800,000	0	8,930,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
WARREN	8857	US-31	IMPROVE US-31W FROM CAMPBELL LANE (US-231) TO UNIVERSITY BOULEVARD (US-231X). (14CCN)(16CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP		4,250,000		
			Project Cost:			0	4,250,000	0	0
WARREN	8904.1	US-31W	WIDEN US-31W FROM PARK AVE. TO FAIRVIEW AVE MP 13.7-14.25	PL					
				DN					
				RW					
				UT					
				CN	STP	4,500,000			
			Project Cost:			4,500,000	0	0	0
WARREN	8905	US-31	IMPROVE MOBILITY AND REDUCE CONGESTION ON US-31W FROM US-68 TO MIZPAH. (16CCN)	PL					
				DN					
				RW					
				UT					
				CN	STP		2,800,000		
			Project Cost:			0	2,800,000	0	0
WARREN	20016	I-65	ADDRESS PAVEMENT CONDITION OF I-065 BOTH DIRECTION(S) FROM MILEPOINT 13.711 TO MILEPOINT 25	PL					
				DN	PM			1,350,000	
				RW					
				UT					
				CN	PM			13,500,000	
			Project Cost:			0	0	14,850,000	0
WARREN	80051	KY-3225	SAFETY IMPROVEMENTS AND REHABILITATION ON KY-3225. KEEP EXISTING FOOTPRINT BY REPLACING CURBLINE IN SAME LOCATION FROM MP 0 TO MP 1	PL					
				DN					
				RW	SPP	1,110,000			
				UT	SPP	100,000			
				CN	SPP		1,200,000		
			Project Cost:			1,210,000	1,200,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Description	Phase	Fund	FY 2021	FY 2022	FY 2023	FY 2024
WARREN	80052	US-234	EXTEND THE 5 LANE SECTION ON KY-234 FROM MP 11.9 TO 12.4. IMPROVEMENTS MAY INCLUDE A ROUNDABOUT, TURN LANE, AND A SIGNAL AT HAMPTON DR.	PL					
				DN	SPP		250,000		
				RW	SPP			180,000	
				UT	SPP			1,500,000	
				CN	SPP				1,400,000
				Project Cost:		0	250,000	1,680,000	1,400,000
				Total for WARREN county					
			PL						
			DN			300,000	1,350,000		
			RW		1,110,000		180,000		
			UT		2,900,000		1,500,000		
			CN		18,570,000	11,130,000	29,160,000	1,800,000	
			Total Amounts:			22,580,000	11,430,000	32,190,000	1,800,000
WASHINGTON	396.2	US-150	IMPROVE SAFETY, MOBILITY, AND GEOMETRICS ALONG US-150 FROM WEST OF OLD FREDERICKTOWN-BARDSTOWN ROAD (KY-1872) THROUGH GRUNDY HOME CURVE TO MAYFIELD LN (CR-1336). (2016BOP)	PL					
				DN	STP	500,000			
				RW	STP		500,000		
				UT	STP		750,000		
				CN	STP				4,000,000
				Project Cost:		500,000	1,250,000	0	4,000,000
WASHINGTON	8958	US-150	ADDRESS SAFETY, MOBILITY, AND GEOMETRIC ISSUES ALONG US 150 IN WASHINGTON COUNTY FROM 400 FEET WEST OF OLD FREDERICKTOWN-BARDSTOWN ROAD (KY 1872) TO 0.7 MILES EAST OF GRUNDY HOME	PL					
				DN					
				RW					
				UT	SPP	1,100,000			
				CN	SPP		9,820,000		
				Project Cost:		1,100,000	9,820,000	0	0
Total for WASHINGTON county									
			PL						
			DN		500,000				
			RW			500,000			
			UT		1,100,000	750,000			
			CN			9,820,000		4,000,000	
			Total Amounts:			1,600,000	11,070,000	0	4,000,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
WAYNE	109.2	KY-90	IMPROVE KY-90 FROM OLD MILL SPRINGS ROA TO THE BRIDGE AT MP 19.5. (12CCR)(16CCR)	PL DN RW UT CN	SPP	4,220,000			
			Project Cost:			4,220,000	0	0	0
WAYNE	20010	KY-90	ADDRESS PAVEMENT CONDITION ON KY-90X FROM MILEPOINT 0.00 TO MILEPOINT 3.54	PL DN RW UT CN	PM				1,623,000
			Project Cost:			0	0	0	1,623,000
WAYNE	80006	KY 1275	WIDEN KY 1275 TO FOUR LANES WITH FOUR FOOT SHOULDERS AND FIVE FOOT SIDEWALKS FROM KY 90 TO BELL LANE	PL DN RW UT CN	SPP	3,000,000			
			Project Cost:			3,000,000	0	0	0
Total for WAYNE county				PL DN RW UT CN		7,220,000			1,623,000
			Total Amounts:			7,220,000	0	0	1,623,000
WHITLEY	14.81	I-75	TENN. STATE LINE-LEXINGTON; WIDEN I-75 TO 8 LANES FROM MP 20.2 IN WHITLEY COUNTY TO MP 28.85, US-25E NORTH OF CORBIN.	PL DN RW UT CN	NH	25,000,000			
			Project Cost:			25,000,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
WHITLEY	14.82	I-75	TENN. STATE LINE-LEXINGTON; WIDEN I-75 TO 8 LANES FROM MP 20.2 IN WHITLEY COUNTY TO MP 28.85, US-25E NORTH OF CORBIN.	PL DN RW UT CN	NH		25,000,000		
				Project Cost:		0	25,000,000	0	0
WHITLEY	14.83	I-75	TENN. STATE LINE-LEXINGTON; WIDEN I-75 TO 8 LANES FROM MP 20.2 IN WHITLEY COUNTY TO MP 28.85, US-25E NORTH OF CORBIN.	PL DN RW UT CN	NH			25,000,000	
				Project Cost:		0	0	25,000,000	0
WHITLEY	184.11	KY-92	RECONSTRUCT KY-92 FROM 500 FT WEST OF THE WHITLEY/MCCREARY COUNTY LINE TO 1200 FT EAST OF OLD JELICO CREEK ROAD. (SECTION 1) (ADDITIONAL FUNDING FOR 11-184.10)	PL DN RW UT CN	STP	6,000,000			
				Project Cost:		6,000,000	0	0	0
WHITLEY	186	US-25	IMPROVE FREIGHT MOBILITY AND REDUCE CONGESTION ON US-25W FROM KY-727 TO KY-3041. (12CCR)(16CCR)	PL DN RW UT CN	NH NH NH	2,770,000 4,160,000	3,330,000		
				Project Cost:		6,930,000	3,330,000	0	0
WHITLEY	186.01	US-25	IMPROVE FREIGHT MOBILITY AND REDUCE CONGESTION ON US-25W FROM KY-727 TO KY-3041. (12CCR)(16CCR)	PL DN RW UT CN	NH			6,670,000	
				Project Cost:		0	0	6,670,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
WHITLEY	20015	I-75	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 0 TO MILEPOINT 11.27	PL DN RW UT CN	PM		900,000		
				Project Cost:		0	9,900,000	0	0
WHITLEY	20018	I-75	ADDRESS PAVEMENT CONDITION OF I-075 CARDINAL DIRECTION(S) FROM MILEPOINT 20.2 TO MILEPOINT 24.645	PL DN RW UT CN	PM		200,000		
				Project Cost:		0	2,200,000	0	0
WHITLEY	20024	KY-26	ADDRESS PAVEMENT CONDITION ON KY-26 FROM MILEPOINT 5.46 TO MILEPOINT 13.33	PL DN RW UT CN	PM		1,313,000		
				Project Cost:		0	1,313,000	0	0
WHITLEY	20025	KY-90	ADDRESS PAVEMENT CONDITION ON KY-90 FROM MILEPOINT 2.78 TO MILEPOINT 8.33	PL DN RW UT CN	PM		926,000		
				Project Cost:		0	926,000	0	0
WHITLEY	20026	US-25	ADDRESS PAVEMENT CONDITION ON US-25W FROM MILEPOINT 26.17 TO MILEPOINT 32.43	PL DN RW UT CN	PM				2,135,000
				Project Cost:		0	0	0	2,135,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for WHITLEY county				PL					
				DN			1,100,000		
				RW		2,770,000			
				UT		4,160,000			
				CN		31,000,000	41,569,000	31,670,000	2,135,000
				Total Amounts:		37,930,000	42,669,000	31,670,000	2,135,000
				PL					
				DN	STP			260,000	
				RW	STP			80,000	
				UT	STP			100,000	
				CN	STP				800,000
				Project Cost:		0	0	440,000	800,000
				PL					
				DN	PM	550,000			
				RW					
				UT					
				CN	PM	5,500,000			
				Project Cost:		6,050,000	0	0	0
				PL					
				DN	PM		275,000		
				RW					
				UT					
				CN	PM		2,750,000		
				Project Cost:		0	3,025,000	0	0
				PL					
				DN	PM	370,000			
				RW					
				UT					
				CN	PM	3,700,000			
				Project Cost:		4,070,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
WOLFE	20016	KY-15	ADDRESS PAVEMENT CONDITION ON KY-15S FROM MILEPOINT 0.00 TO MILEPOINT 0.93	PL DN RW UT CN	PM		896,000		
			Project Cost:			0	896,000	0	0
WOLFE	20017	KY-11	ADDRESS PAVEMENT CONDITION ON KY-11 FROM MILEPOINT 0.35 TO MILEPOINT 5.32	PL DN RW UT CN	PM				1,228,000
			Project Cost:			0	0	0	1,228,000
Total for WOLFE county				PL DN RW UT CN					
			Total Amounts:			920,000	275,000	260,000	
								80,000	
								100,000	
						9,200,000	3,646,000		2,028,000
						10,120,000	3,921,000	440,000	2,028,000
WOODFORD	117	US-60	IMPROVE US 60 (VERSAILLES ROAD) FROM THE BLUEGRASS PARKWAY/HUNTERTOWN PIKE TO PISGAH PIKE.	PL DN RW UT CN	NH	500,000			
			Project Cost:			500,000	0	0	0
WOODFORD	440	KY-169	IMPROVE KY-169 FROM NORTH OF CLEAR CREEK RD IN JESSAMINE COUNTY TO NORTH OF KY-1967 IN WOODFORD COUNTY.	PL DN RW UT CN	STP			800,000	
			Project Cost:			0	0	800,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
WOODFORD	8905	US-60	ACCESS MANAGEMENT IMPROVEMENTS ON US 60 FROM LEXINGTON ROAD AT WOODFORD FEED TO MARSAILLES DRIVE (MP 9.38 TO MP 9.70)	PL DN RW UT CN	SPP SPP SPP	950,000	750,000	2,000,000	
Project Cost:						950,000	750,000	2,000,000	0
Total for WOODFORD county				PL DN RW UT CN		500,000 950,000	750,000	800,000 2,000,000	
Total Amounts:						1,450,000	750,000	2,800,000	0
ZVARIOUS	65.18	-0	BRIDGE REPAIRS ON VARIOUS BRIDGES FOR FY 2021.	PL DN RW UT CN	BR	30,000,000			
Project Cost:						30,000,000	0	0	0
ZVARIOUS	65.19	-0	BRIDGE REPAIRS ON VARIOUS BRIDGES FOR FY 2022.	PL DN RW UT CN	BR		30,000,000		
Project Cost:						0	30,000,000	0	0
ZVARIOUS	65.2	-0	BRIDGE REPAIRS ON VARIOUS BRIDGES FOR FY 2023.	PL DN RW UT CN	BR			30,000,000	
Project Cost:						0	0	30,000,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	65.21	-0	BRIDGE REPAIRS ON VARIOUS BRIDGES FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	BR				30,000,000
			Project Cost:			0	0	0	30,000,000
ZVARIOUS	66.16	-0	ITS' ACTIVITIES ON VARIOUS NHS ROUTES IN KENTUCKY FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	NH	2,000,000			
			Project Cost:			2,000,000	0	0	0
ZVARIOUS	66.17	-0	ITS' ACTIVITIES ON VARIOUS NHS ROUTES IN KENTUCKY FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	NH		2,000,000		
			Project Cost:			0	2,000,000	0	0
ZVARIOUS	66.18	-0	ITS' ACTIVITIES ON VARIOUS NHS ROUTES IN KENTUCKY FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	NH			2,000,000	
			Project Cost:			0	0	2,000,000	0
ZVARIOUS	66.19	-0	ITS' ACTIVITIES ON VARIOUS NHS ROUTES IN KENTUCKY FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	NH				2,000,000
			Project Cost:			0	0	0	2,000,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	195.17	-0	STATEWIDE TRANSPORTATION ENHANCEMENT FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	TE	12,800,000			
			Project Cost:			12,800,000	0	0	0
ZVARIOUS	195.18	-0	STATEWIDE TRANSPORTATION ENHANCEMENT FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	TE		12,800,000		
			Project Cost:			0	12,800,000	0	0
ZVARIOUS	195.23	-0	STATEWIDE TRANSPORTATION ENHANCEMENT FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	TE			14,500,000	
			Project Cost:			0	0	14,500,000	0
ZVARIOUS	195.24	-0	STATEWIDE TRANSPORTATION ENHANCEMENT FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	TE				14,500,000
			Project Cost:			0	0	0	14,500,000
ZVARIOUS	219.19	-0	NON-ATTAINMENT AREAS STATEWIDE CMAQ FUNDED PROJECTS FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	CM	17,800,000			
			Project Cost:			17,800,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	219.2	-0	NON-ATTAINMENT AREAS STATEWIDE CMAQ FUNDED PROJECTS FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	CM		17,800,000		
				Project Cost:		0	17,800,000	0	0
ZVARIOUS	219.21	-0	NON-ATTAINMENT AREAS STATEWIDE CMAQ FUNDED PROJECTS FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	CM			17,800,000	
				Project Cost:		0	0	17,800,000	0
ZVARIOUS	219.22	-0	NON-ATTAINMENT AREAS STATEWIDE CMAQ FUNDED PROJECTS FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	CM				17,800,000
				Project Cost:		0	0	0	17,800,000
ZVARIOUS	224.14	-0	PAVEMENT REHAB ON STATE (NON RS) SYSTEM ROUTES IN KENTUCKY FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	PM	9,000,000			
				Project Cost:		9,000,000	0	0	0
ZVARIOUS	224.15	-0	PAVEMENT REHAB ON STATE (NON RS) SYSTEM ROUTES IN KENTUCKY FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	PM			10,000,000	
				Project Cost:		0	0	10,000,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	327.17	-0	STATEWIDE BRIDGE INSPECTION FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	BR	2,600,000			
			Project Cost:			2,600,000	0	0	0
ZVARIOUS	327.18	-0	STATEWIDE BRIDGE INSPECTION FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	BR		2,600,000		
			Project Cost:			0	2,600,000	0	0
ZVARIOUS	327.19	-0	STATEWIDE BRIDGE INSPECTION FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	BR			2,600,000	
			Project Cost:			0	0	2,600,000	0
ZVARIOUS	327.2	-0	STATEWIDE BRIDGE INSPECTION FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	BR				2,600,000
			Project Cost:			0	0	0	2,600,000
ZVARIOUS	333.15	-0	STATEWIDE FEDERAL LANDS ACCESS PROGRAM FEDERAL HIGHWAY FUNDS FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	FH		1,641,000		
			Project Cost:			0	1,641,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	333.16	-0	STATEWIDE FEDERAL LANDS ACCESS PROGRAM FEDERAL HIGHWAY FUNDS FOR FY 2023.	PL DN RW UT CN	FH			1,641,000	
				Project Cost:		0	0	1,641,000	0
ZVARIOUS	333.17	-0	STATEWIDE FEDERAL LANDS ACCESS PROGRAM FEDERAL HIGHWAY FUNDS FOR FY 2024.	PL DN RW UT CN	FH				1,641,000
				Project Cost:		0	0	0	1,641,000
ZVARIOUS	337.15	-0	STATEWIDE I-STATE ROUTES FOR FY 2021. (14CCR)	PL DN RW UT CN	PM	9,000,000			
				Project Cost:		9,000,000	0	0	0
ZVARIOUS	337.16	-0	STATEWIDE I-STATE ROUTES FOR FY 2023.	PL DN RW UT CN	PM			10,000,000	
				Project Cost:		0	0	10,000,000	0
ZVARIOUS	346.17	-0	STATEWIDE OFF-SYSTEM BRIDGE INSPECTION FOR FY 2021.	PL DN RW UT CN	BR	1,100,000			
				Project Cost:		1,100,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	346.18	-0	STATEWIDE OFF-SYSTEM BRIDGE INSPECTION FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	BR		1,100,000		
				Project Cost:		0	1,100,000	0	0
ZVARIOUS	346.19	-0	STATEWIDE OFF-SYSTEM BRIDGE INSPECTION FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	BR			1,100,000	
				Project Cost:		0	0	1,100,000	0
ZVARIOUS	346.2	-0	STATEWIDE OFF-SYSTEM BRIDGE INSPECTION FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	BR				1,100,000
				Project Cost:		0	0	0	1,100,000
ZVARIOUS	352.17	-0	RAIL PROTECTION ON VARIOUS ROUTES FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	RRP	4,400,000			
				Project Cost:		4,400,000	0	0	0
ZVARIOUS	352.18	-0	RAIL PROTECTION ON VARIOUS ROUTES FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	RRP		4,400,000		
				Project Cost:		0	4,400,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	352.19	-0	RAIL PROTECTION ON VARIOUS ROUTES FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	RRP			4,400,000	
			Project Cost:			0	0	4,400,000	0
ZVARIOUS	352.2	-0	RAIL PROTECTION ON VARIOUS ROUTES FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	RRP				4,400,000
			Project Cost:			0	0	0	4,400,000
ZVARIOUS	369.1	-0	PAVEMENT REHABILITATION FOR VARIOUS NHS ROUTES IN KENTUCKY FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	PM	9,000,000			
			Project Cost:			9,000,000	0	0	0
ZVARIOUS	369.11	-0	PAVEMENT REHABILITATION FOR VARIOUS NHS ROUTES IN KENTUCKY FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	PM			10,000,000	
			Project Cost:			0	0	10,000,000	0
ZVARIOUS	388.11	-0	OHIO RIVER BRIDGES FRACTURE CRITICAL FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	BR	1,600,000			
			Project Cost:			1,600,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	388.12	-0	OHIO RIVER BRIDGES FRACTURE CRITICAL FOR FY 2022.	PL DN RW UT CN	BR		1,600,000		
				Project Cost:		0	1,600,000	0	0
ZVARIOUS	388.13	-0	OHIO RIVER BRIDGES FRACTURE CRITICAL FOR FY 2023.	PL DN RW UT CN	BR			1,600,000	
				Project Cost:		0	0	1,600,000	0
ZVARIOUS	388.14	-0	OHIO RIVER BRIDGES FRACTURE CRITICAL FOR FY 2024.	PL DN RW UT CN	BR				1,600,000
				Project Cost:		0	0	0	1,600,000
ZVARIOUS	391.06	-0	STATEWIDE HIGHWAY PROJECT DESIGN ACTIVITIES.	PL DN RW UT CN	STP	1,000,000			
				Project Cost:		1,000,000	0	0	0
ZVARIOUS	391.07	-0	STATEWIDE HIGHWAY PROJECT DESIGN ACTIVITIES.	PL DN RW UT CN	STP			5,000,000	
				Project Cost:		0	0	5,000,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	395.08	-0	PAVEMENT REPAIR AT INTERSECTIONS FOR VARIOUS ROADWAYS FOR FY 2021.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	PM	5,000,000			
			Project Cost:			5,000,000	0	0	0
ZVARIOUS	395.09	-0	PAVEMENT REPAIR AT INTERSECTIONS FOR VARIOUS ROADWAYS FOR FY 2023.(12CCR)	PL					
				DN					
				RW					
				UT					
				CN	PM			10,000,000	
			Project Cost:			0	0	10,000,000	0
ZVARIOUS	400.07	-0	UPGRADE NAVIGATIONAL LIGHTING FOR BRIDGES OVER MAJOR STREAMS AND WATERWAYS FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	SPP	1,000,000			
			Project Cost:			1,000,000	0	0	0
ZVARIOUS	400.08	-0	UPGRADE NAVIGATIONAL LIGHTING FOR BRIDGES OVER MAJOR STREAMS AND WATERWAYS FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	SPP			1,000,000	
			Project Cost:			0	0	1,000,000	0
ZVARIOUS	510.05	-0	HONORING BORDER STATES COMMITMENTS FOR EXISTING BRIDGES(CANNOT BE MOVED).	PL					
				DN					
				RW					
				UT					
				CN	BR	15,000,000			
			Project Cost:			15,000,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	510.06	-0	HONORING BORDER STATES COMMITMENTS FOR EXISTING BRIDGES(CANNOT BE MOVED).	PL DN RW UT CN	BR		15,000,000		
				Project Cost:		0	15,000,000	0	0
ZVARIOUS	510.07	-0	HONORING BORDER STATES COMMITMENTS FOR EXISTING BRIDGES (CANNOT BE MOVED).	PL DN RW UT CN	BR			15,000,000	
				Project Cost:		0	0	15,000,000	0
ZVARIOUS	510.08	-0	HONORING BORDER STATES COMMITMENTS FOR EXISTING BRIDGES (CANNOT BE MOVED).	PL DN RW UT CN	BR				15,000,000
				Project Cost:		0	0	0	15,000,000
ZVARIOUS	511.05	-0	STATEWIDE CORRECTIONS OF ROCK FALL OR EMBANKMENT STABILIZATION FOR FY 2021.	PL DN RW UT CN	STP	1,000,000			
				Project Cost:		1,000,000	0	0	0
ZVARIOUS	511.06	-0	STATEWIDE CORRECTIONS OF ROCK FALL OR EMBANKMENT STABILIZATION FOR FY 2022.	PL DN RW UT CN	STP		2,000,000		
				Project Cost:		0	2,000,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	511.07	-0	STATEWIDE CORRECTIONS OF ROCK FALL OR EMBANKMENT STABILIZATION FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	STP			8,500,000	
				Project Cost:		0	0	8,500,000	0
ZVARIOUS	511.08	-0	STATEWIDE CORRECTIONS OF ROCK FALL OR EMBANKMENT STABILIZATION FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	STP				1,000,000
				Project Cost:		0	0	0	1,000,000
ZVARIOUS	514.01	-0	PREVENTATIVE MAINTENANCE FOR BRIDGE STRUCTURES FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	BR	10,000,000			
				Project Cost:		10,000,000	0	0	0
ZVARIOUS	514.02	-0	PREVENTATIVE MAINTENANCE FOR BRIDGE STRUCTURES FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	BR			10,000,000	
				Project Cost:		0	0	10,000,000	0
ZVARIOUS	518.02	-0	STATEWIDE CORRECTIONS OF ROCKFALL OR EMBANKMENT STABILIZATION ON NH ROUTES FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	NH	6,000,000			
				Project Cost:		6,000,000	0	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	518.03	-0	STATEWIDE CORRECTIONS OF ROCKFALL OR EMBANKMENT STABILIZATION ON NH ROUTES FOR FY 2022.	PL DN RW UT CN	NH	<u> </u>	<u>7,000,000</u>	<u> </u>	<u> </u>
				Project Cost:		0	7,000,000	0	0
ZVARIOUS	518.04	-0	STATEWIDE CORRECTIONS OF ROCKFALL OR EMBANKMENT STABILIZATION ON NH ROUTES FOR FY 2023.	PL DN RW UT CN	NH	<u> </u>	<u> </u>	<u>9,500,000</u>	<u> </u>
				Project Cost:		0	0	9,500,000	0
ZVARIOUS	518.05	-0	STATEWIDE CORRECTIONS OF ROCKFALL OR EMBANKMENT STABILIZATION ON NH ROUTES FOR FY 2024.	PL DN RW UT CN	NH	<u> </u>	<u> </u>	<u> </u>	<u>8,000,000</u>
				Project Cost:		0	0	0	8,000,000
ZVARIOUS	911.1	-0	STATEWIDE SAFETY PROGRAM FOR FY 2021. (HSIP)	PL DN RW UT CN	SAF	<u>47,500,000</u>	<u> </u>	<u> </u>	<u> </u>
				Project Cost:		47,500,000	0	0	0
ZVARIOUS	911.11	-0	STATEWIDE SAFETY PROGRAM FOR FY 2022. (HSIP)	PL DN RW UT CN	SAF	<u> </u>	<u>47,500,000</u>	<u> </u>	<u> </u>
				Project Cost:		0	47,500,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	911.12	-0	STATEWIDE SAFETY PROGRAM FOR FY 2023. (HSIP)	PL					
				DN					
				RW					
				UT					
				CN	SAF			47,500,000	
			Project Cost:			0	0	47,500,000	0
ZVARIOUS	911.13	-0	STATEWIDE SAFETY PROGRAM FOR FY 2024. (HSIP)	PL					
				DN					
				RW					
				UT					
				CN	SAF				47,500,000
			Project Cost:			0	0	0	47,500,000
ZVARIOUS	1063.17	-0	STATEWIDE UNDERWATER BRIDGE INSPECTION FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	BR	500,000			
			Project Cost:			500,000	0	0	0
ZVARIOUS	1063.18	-0	STATEWIDE UNDERWATER BRIDGE INSPECTION FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	BR		500,000		
			Project Cost:			0	500,000	0	0
ZVARIOUS	1063.19	-0	STATEWIDE UNDERWATER BRIDGE INSPECTION FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	BR			500,000	
			Project Cost:			0	0	500,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	1063.2	-0	STATEWIDE UNDERWATER BRIDGE INSPECTION FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	BR				500,000
			Project Cost:			0	0	0	500,000
ZVARIOUS	1071.09	-0	STATEWIDE PROGRAM TO FUND BRIDGE SCOUR COUNTER-MEASURES FOR STATE-MAINTAINED BRIDGES FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	SPP	1,500,000			
			Project Cost:			1,500,000	0	0	0
ZVARIOUS	1071.1	-0	STATEWIDE PROGRAM TO FUND BRIDGE SCOUR COUNTER-MEASURES FOR STATE-MAINTAINED BRIDGES FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	SPP		1,500,000		
			Project Cost:			0	1,500,000	0	0
ZVARIOUS	1071.11	-0	STATEWIDE PROGRAM TO FUND BRIDGE SCOUR COUNTER-MEASURES FOR STATE-MAINTAINED BRIDGES FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	SPP			1,500,000	
			Project Cost:			0	0	1,500,000	0
ZVARIOUS	1071.12	-0	STATEWIDE PROGRAM TO FUND BRIDGE SCOUR COUNTER-MEASURES FOR STATE-MAINTAINED BRIDGES FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	SPP				1,500,000
			Project Cost:			0	0	0	1,500,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	1074.08	-0	STATEWIDE BRIDGE REPLACEMENT PROGRAM FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	BR	18,000,000			
			Project Cost:			18,000,000	0	0	0
ZVARIOUS	1074.09	-0	STATEWIDE BRIDGE REPLACEMENT PROGRAM FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	BR		20,000,000		
			Project Cost:			0	20,000,000	0	0
ZVARIOUS	1074.1	-0	STATEWIDE BRIDGE REPLACEMENT PROGRAM FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	BR			20,000,000	
			Project Cost:			0	0	20,000,000	0
ZVARIOUS	2700.15	-0	PAVEMENT PREVENTATIVE MAINTENANCE PROGRAM FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	PM	5,000,000			
			Project Cost:			5,000,000	0	0	0
ZVARIOUS	2700.16	-0	PAVEMENT PREVENTATIVE MAINTENANCE PROGRAM FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	PM		5,000,000		
			Project Cost:			0	5,000,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	2700.17	-0	PAVEMENT PREVENTATIVE MAINTENANCE PROGRAM FOR FY 2023.	PL					
				DN					
				RW					
				UT					
				CN	PM			12,000,000	
			Project Cost:			0	0	12,000,000	0
ZVARIOUS	2700.18	-0	PAVEMENT PREVENTATIVE MAINTENANCE PROGRAM FOR FY 2024.	PL					
				DN					
				RW					
				UT					
				CN	PM				12,000,000
			Project Cost:			0	0	0	12,000,000
ZVARIOUS	3011.02	-0	AMERICANS WITH DISABILITIES ACT (ADA) TRANSITION PLAN IMPLEMENTATION PROJECTS.	PL					
				DN					
				RW					
				UT					
				CN	STP	1,000,000			
			Project Cost:			1,000,000	0	0	0
ZVARIOUS	3011.03	-0	AMERICANS WITH DISABILITIES ACT (ADA) TRANSITION PLAN IMPLEMENTATION PROJECTS.	PL					
				DN					
				RW					
				UT					
				CN	STP		1,000,000		
			Project Cost:			0	1,000,000	0	0
ZVARIOUS	3011.04	-0	AMERICANS WITH DISABILITIES ACT (ADA) TRANSITION PLAN IMPLEMENTATION PROJECTS.	PL					
				DN					
				RW					
				UT					
				CN	STP			1,000,000	
			Project Cost:			0	0	1,000,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	3011.05	-0	AMERICANS WITH DISABILITIES ACT (ADA) TRANSITION PLAN IMPLEMENTATION PROJECTS.	PL					
				DN					
				RW					
				UT					
				CN	STP				1,000,000
				Project Cost:		0	0	0	1,000,000
ZVARIOUS	8500.16	-0	SCHOOL TURN LANE PROJECTS. (08CCN) (12CCR)	PL					
				DN					
				RW					
				UT					
				CN	SPP		5,000,000		
				Project Cost:		0	5,000,000	0	0
ZVARIOUS	8500.17	-0	SCHOOL TURN LANE PROJECTS.	PL					
				DN					
				RW					
				UT					
				CN	SPP				5,000,000
				Project Cost:		0	0	0	5,000,000
ZVARIOUS	9068.67	US-68	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (STP) FOR FY 2021.	PL					
				DN					
				RW					
				UT					
				CN	STP	9,100,000			
				Project Cost:		9,100,000	0	0	0
ZVARIOUS	9068.68	US-68	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (STP) FOR FY 2022.	PL					
				DN					
				RW					
				UT					
				CN	STP		9,100,000		
				Project Cost:		0	9,100,000	0	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	9068.69	US-68	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (NH) FOR FY 2021.	PL DN RW UT CN	NH	9,100,000			
			Project Cost:			9,100,000	0	0	0
ZVARIOUS	9068.7	US-68	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (NH) FOR FY 2022.	PL DN RW UT CN	NH		9,100,000		
			Project Cost:			0	9,100,000	0	0
ZVARIOUS	9068.71	US-68	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (NH) FOR FY 2023.	PL DN RW UT CN	NH			21,000,000	
			Project Cost:			0	0	21,000,000	0
ZVARIOUS	9068.72	US-68	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (NH) FOR FY 2024.	PL DN RW UT CN	NH				21,000,000
			Project Cost:			0	0	0	21,000,000
ZVARIOUS	9068.74	US-68	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (STP) FOR FY 2023.	PL DN RW UT CN	STP			21,000,000	
			Project Cost:			0	0	21,000,000	0

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
ZVARIOUS	9068.75	US-68	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (STP) FOR FY 2024.	PL DN RW UT CN	STP				21,000,000
			Project Cost:			0	0	0	21,000,000
ZVARIOUS	9659.25	-0	GARVEE BOND DEBT SERVICE FOR LOUISVILLE BRIDGES PROJECT FOR FY 2021. (JZ1-FD53 "NH" COMPONENT)	PL DN RW UT CN	NH	62,800,000			
			Project Cost:			62,800,000	0	0	0
ZVARIOUS	9659.27	-0	GARVEE BOND DEBT SERVICE FOR LOUISVILLE BRIDGES PROJECT FOR FY 2022. (JZ1-FD53 "NH" COMPONENT)	PL DN RW UT CN	NH		62,800,000		
			Project Cost:			0	62,800,000	0	0
ZVARIOUS	9659.29	-0	GARVEE BOND DEBT SERVICE FOR LOUISVILLE BRIDGES FOR FY 2023. (JZ1-FD53 "NH" COMPONENT)	PL DN RW UT CN	NH			30,000,000	
			Project Cost:			0	0	30,000,000	0
ZVARIOUS	9659.31	-0	GARVEE BOND DEBT SERVICE FOR LOUISVILLE BRIDGES FOR FY 2024. (JZ1-FD53 "NH" COMPONENT)	PL DN RW UT CN	NH				30,000,000
			Project Cost:			0	0	0	30,000,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Total for ZVARIOUS county				PL					
				DN		1,000,000		5,000,000	
				RW					
				UT					
				CN		291,800,000	259,441,000	314,141,000	239,141,000
				Total Amounts:		292,800,000	259,441,000	319,141,000	239,141,000

2020-2024 HIGHWAY CONSTRUCTION PLAN

Fund Summary

Fund	Description	FY 2021	FY 2022	FY 2023	FY 2024	Total
BR	FEDERAL BRIDGE REPLACEMENT	148,118,500	134,635,000	141,400,000	144,300,000	568,453,500
BR2	BRAC BOND PROJECTS SECOND PROGRAM	8,700,000	0	0	0	8,700,000
CM	FEDERAL CONGESTION MITIGATION FUNDS	17,800,000	17,800,000	17,800,000	17,800,000	71,200,000
FH	FEDERAL FOREST HIGHWAY FUNDS	0	1,641,000	1,641,000	1,641,000	4,923,000
NH	FEDERAL NATIONAL HIGHWAY SYSTEM FUNDS	448,380,000	368,090,000	297,800,000	292,090,000	1,406,360,000
PM	PAVEMENT MANAGEMENT	217,427,500	188,881,000	191,095,000	198,860,000	796,263,500
RRP	SAFETY-RAILROAD PROTECTION	4,400,000	4,400,000	4,400,000	4,400,000	17,600,000
RRS	SAFETY-RAILROAD SEPARATION	0	6,500,000	0	0	6,500,000
SAF	FEDERAL SAFETY FUNDS	47,500,000	47,500,000	47,500,000	47,500,000	190,000,000
SAH	FEDERAL STP FUNDS DEDICATED TO ASHLAND	1,600,000	1,600,000	1,600,000	1,600,000	6,400,000
SHN	FEDERAL STP FUNDS DEDICATED TO HENDERSON	700,000	700,000	700,000	0	2,100,000
SLO	FEDERAL STP FUNDS DEDICATED TO LOUISVILLE	21,657,196	23,500,000	9,262,000	23,500,000	77,919,196
SLX	FEDERAL STP FUNDS DEDICATED TO LEXINGTON	8,956,000	8,956,000	8,956,000	58,156,000	85,024,000
SNK	FEDERAL STP FUNDS DEDICATED TO NORTHERN KENTUCKY	10,770,000	9,300,000	9,200,000	9,200,000	38,470,000
SPP	STATE CONSTRUCTION HIGH PRIORITY PROJECTS	336,374,400	366,817,400	367,533,400	835,637,400	1,906,362,600
STP	FEDERAL STATEWIDE TRANSPORTATION PROGRAM FUNDS	136,617,000	132,660,000	152,090,000	141,130,000	562,497,000
TE	FEDERAL TRANSPORTATION ENHANCEMENT PROGRAM FUNDS	12,800,000	12,800,000	14,500,000	14,500,000	54,600,000
Total Amount		1,421,800,596	1,325,780,400	1,265,477,400	1,790,314,400	5,803,372,796

CHAPTER 162

(HB 381)

AN ACT relating to elections.

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

➔Section 1. KRS 83A.045 is amended to read as follows:

- (1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:
 - (a) A candidate for party nomination to city office shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election for the office sought. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
 - (b) An independent candidate for nomination to city office shall not participate in a primary, but shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the ~~first~~~~second~~ Tuesday **after the first Monday in June**~~August~~ before the day fixed by KRS Chapter 118 for holding a regular election for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed; and
 - (c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he or she was an unsuccessful candidate in the primary, his or her name may be placed on the voting machines for the regular election as a candidate of that party if he or she has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.
- (2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:
 - (a) A candidate for city office shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary for nominations for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
 - (b) Any city of the home rule class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:
 1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the ~~first~~~~second~~ Tuesday **after the first Monday in June**~~August~~ before the day fixed by KRS Chapter 118 for holding a regular election for the office. Signatures for nomination papers shall not be affixed on the document to

be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot;

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
 3. If a city does not conduct a primary pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121;
 4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected;
 5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121;
 6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting; and
 7. At the regular election, the voters shall be instructed to vote for one (1) candidate, except when there is more than one (1) candidate for which voters may vote, the instruction "vote for up to candidates" shall be used on the ballot; and
- (c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

➔Section 2. KRS 83A.165 is amended to read as follows:

- (1) A candidate running to fill the unexpired term of any city office shall file his nomination papers in accordance with the provisions of KRS 83A.045, 118.365, 118.375, and 83A.047.
- (2) Vacancies in the office of mayor or city legislative body that are to be filled temporarily by appointment shall be governed by the provisions of KRS 83A.040 and Section 152 of the Kentucky Constitution.
- (3) Vacancies in the office of mayor or city legislative body that are to be filled by partisan election shall be governed by the following provisions:
 - (a) Vacancies in candidacy shall be governed by KRS 118.105;
 - (b) Nominations for unexpired terms shall be governed by KRS 118.115 and Section 152 of the Kentucky Constitution; and
 - (c) Independent candidates filing to fill a vacancy shall be governed by KRS 118.375.
- (4) Vacancies in the office of mayor or city legislative body that are to be filled by nonpartisan election shall be governed by the following provisions:
 - (a) If the vacancy occurs not less than one hundred thirty-four (134) days before a May primary, candidates to fill the vacancy shall be nominated at that primary in the manner prescribed in KRS 83A.170.~~;~~ ~~and~~
 - (b) If the vacancy occurs on or after the one hundred thirty-fourth day before a May primary or at ~~any~~ ~~a~~ time ***before the time prescribed in Section 7 of this Act for filing petitions of nomination***~~after the primary~~, the election to fill the unexpired term shall be held without a primary in the manner prescribed in Section 152 of the Kentucky Constitution. Petitions of nomination for candidates to fill the vacancy shall be filed at the time and place prescribed in KRS 118.365.~~;~~ ~~and~~
 - (c) ***If the vacancy occurs after the time prescribed in Section 7 of this Act for filing petitions of nomination, but not less than three (3) months before the regular election, petitions of nomination for candidates to fill the vacancy shall be filed not later than the second Tuesday in August preceding the regular election for the office sought.***
 - (d) Vacancies in candidacy in any city that has eliminated the nonpartisan primary election pursuant to KRS 83A.045 shall be governed by the provisions of KRS 83A.045(2)(b)6.

➔Section 3. KRS 118.215 is amended to read as follows:

- (1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him *or her*, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:
 - (a) Not later than the second Monday after the filing deadline for the primary;
 - (b) Not later than the second Monday *following the second Tuesday in August* ~~(after the filing deadline)~~ for the *regular* ~~general~~ election, except as provided in paragraph (c) of this subsection; and
 - (c) Not later than the Monday after the Friday following the first Tuesday in September preceding a *regular* ~~general~~ election, for those years in which there is an election for President and Vice President of the United States.
- (2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.
- (3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.
- (4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.
- (5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he *or she* shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the *regular* ~~general~~ election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot. Supplemental paper ballots may also be used to conduct the voting, in the instance of a small precinct as provided in KRS 117.066.
- (6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

➔Section 4. KRS 118.225 is amended to read as follows:

- (1) For the purpose of determining the order in which the names of candidates or slates of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the

state. *The Secretary of State*~~He~~ shall arrange the surnames of all candidates or slates of candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

- (2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary or the Thursday following the ~~first~~~~second~~ Tuesday *after the first Monday* in ~~June~~~~August~~ preceding the ~~regular~~~~general~~ election.
- (3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m., standard time, on the Thursday following the last Tuesday in January before the primary or the Thursday following the ~~first~~~~second~~ Tuesday *after the first Monday* in ~~June~~~~August~~ preceding the ~~regular~~~~general~~ election.
- (4) *For all offices for which the deadline for filing nomination papers and petitions is governed by subsection (4)(c) of Section 2 of this Act or subsection (2) of Section 8 of this Act, the order in which the names of candidates for each office are to be printed shall be determined by lot at a public drawing in the office at the place of filing at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.*
- (5) If the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

➔Section 5. KRS 118A.090 is amended to read as follows:

- (1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division~~thereof~~ if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the ~~first~~~~second~~ Tuesday *after the first Monday* in ~~June~~~~August~~ preceding the regular election, *except as provided in subsection (6) of Section 6 of this Act.*
- (2) Not later than the date set forth in KRS 118.215(1)(b) after the filing deadline for the regular election in a year in which there is no election for President and Vice President of the United States, or not later than the date set forth in KRS 118.215(1)(c) preceding a regular election in a year in which there is an election for President and Vice President of the United States, and after the order of names on the ballot has been determined as required in subsection (1) of this section, the Secretary of State shall:
 - (a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division~~thereof~~ if divisions exist, as certified under KRS 118A.060; and
 - (b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.
- (3) The ballot position of a candidate shall not be changed after the ballot position has been designated by the Secretary of State. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.
- (4) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.
- (5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

➔Section 6. KRS 118A.100 is amended to read as follows:

- (1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not later than the second Tuesday in January preceding the primary. If the vacancy occurs on or after that date, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.
- (2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity, or withdrawal, and the candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.
- (3) Each candidate shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the election for the unexpired term will be held and not later than the ~~first~~~~second~~ Tuesday *after the first Monday in June*~~August~~ preceding the day fixed by law for holding the regular election for the unexpired term, *if the vacancy occurs prior to the first Tuesday following the first Monday in June. If the vacancy occurs after the first Tuesday following the first Monday in June, each candidate shall file a petition for nomination with the Secretary of State not later than the second Tuesday in August preceding the day fixed by law for holding the regular election for the unexpired term.* The petition shall be sworn to by the candidate and by not less than two (2) registered voters from the district or circuit from which he or she seeks nomination, before an officer authorized to administer an oath. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.
- (4) The petition for nomination shall be in the form prescribed by the State Board of Elections. The petition shall include a declaration sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.
- (5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (6) The order of names on the ballot for each district or circuit, and numbered division~~thereof~~ if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the ~~first~~~~second~~ Tuesday *after the first Monday in June*~~August~~ preceding the regular election *for those petitions for nomination required to be filed no later than the first Tuesday following the first Monday in June. For those petitions for nomination required to be filed no later than the second Tuesday in August, the order of names on the ballot for each district and circuit, and numbered division if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.*
- (7) Not later than the date set forth in KRS 118.215 and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:
 - (a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division~~thereof~~ if divisions exist, as specified in the petitions for nomination filed with the Secretary of State; and
 - (b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.
- (8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.
- (9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.

- (10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in a manner so that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division~~[thereof]~~ if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.
- (11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division~~[thereof]~~ if divisions exist, shall be elected.
- (12) A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.

➔Section 7. KRS 118.365 is amended to read as follows:

- (1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.
- (2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the ~~first^{second}~~ Tuesday ***after the first Monday in June~~[August]~~*** preceding the day fixed by law for the holding of regular elections for the offices sought.
- (3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the ~~first^{second}~~ Tuesday ***after the first Monday in June~~[August]~~*** preceding the regular election for the office sought.
- (4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the ~~first^{second}~~ Tuesday ***after the first Monday in June~~[August]~~*** preceding the day fixed by law for the election of the person in nomination.
- (5) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the ~~first^{second}~~ Tuesday ***after the first Monday in June~~[August]~~*** preceding the day fixed by law for the holding of regular elections for the offices sought. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the ~~first^{second}~~ Tuesday ***after the first Monday in June~~[August]~~*** preceding the day fixed by law for the holding of regular elections for the offices sought. The filing of petitions of nomination for independent, or political organization, or political group candidates shall not be accepted by the Secretary of State or the county clerk if the candidate has not filed a statement-of-candidacy form as required by KRS 118.367.
- (6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and not later than the Friday following the first Tuesday in September preceding the date fixed by law for the election of the electors.
- (7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a regular election.

- (8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers are permitted to be filed.

➔Section 8. KRS 118.375 is amended to read as follows:

- (1) If a vacancy occurs in any elective office less than one hundred thirty-four (134) days before the primary or at any time *before the time prescribed in Section 7 of this Act for filing petitions of nomination*~~[after the primary, but not less than three (3) months before the regular election]~~, independent, or political organization, or political group candidates may file their petitions at the time and place provided in KRS 118.365, subject to the restrictions concerning party registration and candidacy provided in KRS 118.315(1).
- (2) *If a vacancy occurs in any elective office after the time prescribed in Section 7 of this Act for filing petitions of nomination, but not less than three (3) months before the regular election, independent, or political organization, or political group candidates may file their petitions not later than the second Tuesday in August preceding the regular election for the office sought, subject to the restrictions concerning party registration and candidacy provided in KRS 118.315(1).*
- (3) A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.

➔Section 9. This Act takes effect November 7, 2018.

Became law without Governor's signature April 14, 2018.

CHAPTER 163

(HB 394)

AN ACT relating to abandoned property.

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

➔SECTION 1. KRS CHAPTER 393A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

- (1) *"Administrator" means the Kentucky State Treasurer;*
- (2) *"Administrator's agent":*
- (a) *Means a person with which the administrator contracts to conduct an examination under Sections 55 to 65 of this Act on behalf of the administrator; and*
 - (b) *Includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor;*
- (3) *"Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder;*
- (4) *"Business association" means a corporation, joint stock company, investment company other than an investment company registered under 15 U.S.C. secs. 80a-1 to 80a-64, as amended, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity, whether or not for profit;*
- (5) *"Confidential information" means records, reports, and information that are confidential under Section 78 of this Act;*
- (6) *"Domicile" means:*
- (a) *For a corporation, the state of its incorporation;*

- (b) *For a business association whose formation requires a filing with a state, other than a corporation, the state of its filing;*
- (c) *For a federally chartered entity or an investment company registered under 15 U.S.C. secs. 80a-1 to 80a-64, as amended, the state of its home office; and*
- (d) *For any other holder, the state of its principal place of business;*
- (7) *"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;*
- (8) *"Electronic mail" means a communication by electronic means which is automatically retained and stored and may be readily accessed or retrieved;*
- (9) *"Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union;*
- (10) *"Game-related digital content":*
 - (a) *Means digital content that exists only in an electronic game or electronic-game platform;*
 - (b) *Includes:*
 - 1. *Game-play currency such as a virtual wallet, even if denominated in United States currency; and*
 - 2. *The following if for use or redemption only within the game or platform or another electronic game or electronic-game platform:*
 - a. *Points sometimes referred to as gems, tokens, gold, and similar names; and*
 - b. *Digital codes; and*
 - (c) *Does not include an item that the issuer permits to be redeemed for use outside a game or platform:*
 - 1. *For money;*
 - 2. *For goods or services that have more than minimal value; or*
 - 3. *That otherwise monetizes for use outside a game or platform;*
- (11) *"Gift card" means:*
 - (a) *A stored-value card:*
 - 1. *The value of which does not expire;*
 - 2. *That may be decreased in value only by redemption for merchandise, goods, or services; and*
 - 3. *That, unless required by law, may not be redeemed for or converted into money or otherwise monetized by the issuer; and*
 - (b) *Includes a prepaid commercial mobile radio service, as defined in 47 C.F.R. sec. 20.3, as amended;*
- (12) *"Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this chapter;*
- (13) *"Insurance company" means an association, corporation, or fraternal or mutual-benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit-life, contract-performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage-protection, and worker-compensation insurance;*
- (14) *"Loyalty card":*
 - (a) *Means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program, which may be used or redeemed only to obtain goods or services or a discount on goods or services;*
 - (b) *Does not include a record that may be redeemed for money or otherwise monetized by the issuer;*
- (15) *"Mineral" means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable*

ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by law of this state other than this chapter;

(16) "Mineral proceeds":

- (a)** *Means an amount payable for extraction, production, or sale of minerals, or, on the abandonment of the amount, an amount that becomes payable after abandonment; and*
- (b)** *Includes an amount payable:*
 - 1.** *For the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, and delay rental;*
 - 2.** *For the extraction, production, or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, and production payment; and*
 - 3.** *Under an agreement or option, including a joint-operating agreement, unit agreement, pooling agreement, and farm-out agreement;*

(17) "Money order":

- (a)** *Means a payment order for a specified amount of money; and*
- (b)** *Includes an express money order and a personal money order on which the remitter is the purchaser;*

(18) "Municipal bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state;

(19) "Net card value" means the original purchase price or original issued value of a stored-value card, plus amounts added to the original price or value, minus amounts used and any service charge, fee, or dormancy charge permitted by law;

(20) "Non-freely transferable security":

- (a)** *Means a security that cannot be delivered to the administrator by the Depository Trust Clearing Corporation or similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer; and*
- (b)** *Includes a worthless security;*

(21) "Owner":

- (a)** *Means a person that has a legal, beneficial, or equitable interest in property subject to this chapter or the person's legal representative when acting on behalf of the owner; and*
- (b)** *Includes:*
 - 1.** *A depositor, for a deposit;*
 - 2.** *A beneficiary, for a trust other than a deposit in trust;*
 - 3.** *A creditor, claimant, or payee, for other property; and*
 - 4.** *The lawful bearer of a record that may be used to obtain money, a reward, or a thing of value;*

(22) "Payroll card" means a record that evidences a payroll-card account as defined in 12 C.F.R. pt. 1005, as amended;

(23) "Person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency, or instrumentality or other legal entity;

(24) "Property":

- (a)** *Means tangible property described in Section 8 of this Act or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government, governmental subdivision, agency, or instrumentality;*
- (b)** *Includes all income from or increments to the property;*
- (c)** *Includes property referred to as or evidenced by:*
 - 1.** *Money, virtual currency, interest, or a dividend, check, draft, deposit, or payroll card;*

2. *A credit balance, customer's overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;*
 3. *A security, except for:*
 - a. *A worthless security; or*
 - b. *A security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;*
 4. *A bond, debenture, note, or other evidence of indebtedness;*
 5. *Money deposited to redeem a security, make a distribution, or pay a dividend;*
 6. *An amount due and payable under an annuity contract or insurance policy; and*
 7. *An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit;*
- (d) *Does not include:*
1. *Property held in a plan described in 26 U.S.C. sec. 529A, as amended;*
 2. *Game-related digital content;*
 3. *A loyalty card;*
 4. *An in-store credit for returned merchandise; or*
 5. *A gift card;*
- (25) *"Putative holder" means a person believed by the administrator to be a holder, until the person pays or delivers to the administrator property subject to this chapter or the administrator or a court makes a final determination that the person is or is not a holder;*
- (26) *"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;*
- (27) *"Security" means:*
- (a) *A security as defined in KRS 355.8-102;*
 - (b) *A security entitlement as defined in KRS 355.8-102, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:*
 1. *Registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;*
 2. *Payable to the order of the person; or*
 3. *Specifically indorsed to the person; and*
 - (c) *An equity interest in a business association not included in paragraph (a) or (b) of this subsection;*
- (28) *"Sign" means, with present intent to authenticate or adopt a record:*
- (a) *To execute or adopt a tangible symbol; or*
 - (b) *To attach to or logically associate with the record an electronic symbol, sound, or process;*
- (29) *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;*
- (30) *"Stored-value card":*
- (a) *Means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services, or money will be provided to the owner of the record to the value or amount shown in the record;*

- (b) *Includes a:*
 - 1. *Record that contains or consists of a microprocessor chip, magnetic strip, or other means for the storage of information, which is prefunded and whose value or amount is decreased on each use and increased by payment of additional consideration;*
 - 2. *Gift card; and*
 - 3. *Payroll card; and*
- (c) *Does not include a loyalty card or game-related digital content;*
- (31) *"Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:*
 - (a) *Transmission of communications or information;*
 - (b) *Production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or*
 - (c) *Provision of sewage or septic services, or trash, garbage, or recycling disposal;*
- (32) *"Virtual currency":*
 - (a) *Means a digital representation of value used as a medium of exchange, unit of account, or store of value, which does not have legal tender status recognized by the United States; and*
 - (b) *Does not include:*
 - 1. *The software or protocols governing the transfer of the digital representation of value;*
 - 2. *Game-related digital content; or*
 - 3. *Loyalty card; and*
- (33) *"Worthless security" means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this chapter.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

This chapter shall not apply to:

- (1) *Property held, due, and owing in a foreign country if the transaction out of which the property arose was a foreign transaction;*
- (2) *Money, funds, or any other intangible property held by or owing:*
 - (a) *To a nonprofit exempt under Section 501(c)(3) of the Internal Revenue Code; or*
 - (b) *For any minerals or other raw materials capable of being used for fuel in the course of manufacturing, processing, production, or mining;*
- (3) *Wages or salaries of fifty dollars (\$50) or less that are not claimed by an employee within one (1) year of the date the wages or salaries are earned, unless the amounts are held on a payroll card;*
- (4) *Moneys in inmate accounts and prisoner canteen accounts held by jailer under KRS 441.137; or*
- (5) *Funds held in a lawyer IOLTA trust account under Supreme Court Rule 3.830.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

The administrator may promulgate administrative regulations under KRS Chapter 13A to implement and administer this chapter. In promulgating the administrative regulations, the administrator shall use the most cost-effective methods available for the submission of reports to the administrator and the notice and advertisement of property transferred to the administrator.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Subject to Section 12 of this Act, the following property shall be presumed abandoned if it is unclaimed by the apparent owner during the period specified below:

- (1) *A traveler's check, fifteen (15) years after issuance;*
- (2) *A money order, seven (7) years after issuance;*

- (3) *A state or municipal bond, bearer bond, or original-issue-discount bond, three (3) years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;*
- (4) *A debt of a business association, three (3) years after the obligation to pay arises;*
- (5) *A payroll card or demand, savings, or time deposit account, including a deposit that is automatically renewable, three (3) years after the maturity of the deposit, except a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal, except:*
 - (a) *Property held in an interest-bearing, demand, savings, or time deposit account shall, from the time it is presumed abandoned under this chapter, be placed by the holder in an interest-bearing account made assignable to the administrator;*
 - (b) *The administrator may examine the records of the holder relevant to the establishment and maintenance of an interest-bearing account in accordance with this chapter;*
 - (c) *Upon demand and proper proof by a person appearing entitled to payment of property described in this subsection, the holder may withdraw the property and any accrued interest for payment to the entitled person;*
 - (d) *Property described in this subsection deposited and not claimed ten (10) years after it is presumed abandoned, or upon actual abandonment, shall be paid to the administrator upon whichever abandonment occurs first; and*
 - (e) *The administrator shall not be required to credit interest on any property described in this subsection after the property is received under paragraph (d) of this subsection;*
- (6) *Money or a credit owed to a customer as a result of a retail business transaction, other than in-store credit for returned merchandise, three (3) years after the obligation arose;*
- (7) *An amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three (3) years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant, as follows:*
 - (a) *With respect to an amount owed on a life or endowment insurance policy, three (3) years after the earlier of the date:*
 - 1. *The insurance company has knowledge of the death of the insured; or*
 - 2. *The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and*
 - (b) *With respect to an amount owed on an annuity contract, three (3) years after the date the insurance company has knowledge of the death of the annuitant;*
- (8) *Property distributable by a business association in the course of dissolution, one (1) year after the property becomes distributable;*
- (9) *Property held by a court, including property received as proceeds of a class action, may be paid to the administrator one (1) year after the property becomes distributable, but shall be paid to the administrator no later than five (5) years after the property becomes distributable;*
- (10) *Property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one (1) year after the property becomes distributable;*
- (11) *Property payable or distributable in the course of a demutualization of an insurance company, three (3) years after the earlier of the last contact with the policyholder, or the date the property became payable or distributable;*
- (12) *Wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, other than amounts held in a payroll card, one (1) year after the amount becomes payable;*
- (13) *A deposit or refund owed to a subscriber by a utility, one (1) year after the deposit or refund becomes payable;*

- (14) *All funds represented by unclaimed pari-mutual winning tickets held in this state by any person, association, or corporation operating a pari-mutual or similar system of betting at quarter horse or Appaloosa racetracks, two (2) years from the time the ticket became payable; and*
- (15) *Property not specified in Section 5, 6, 7, 8, 9, or 10 of this Act, the earlier of three (3) years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to Section 12 of this Act, property held in a pension account or retirement account that qualifies for tax deferral under the income-tax laws of the United States shall be presumed abandoned if it is unclaimed by the apparent owner three (3) years after the later of:*
 - (a) *The following dates:*
 - 1. *Except as provided in subparagraph 2. of this paragraph, the date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or*
 - 2. *If the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States Postal Service; or*
 - (b) *The earlier of the following dates:*
 - 1. *The date the apparent owner becomes seventy and one-half (70 ½) years of age, if determinable by the holder; or*
 - 2. *If 26 U.S.C. secs. 1 et seq., as amended, requires distribution to avoid a tax penalty, two (2) years after the date the holder:*
 - a. *Receives confirmation of the death of the apparent owner in the ordinary course of its business; or*
 - b. *Confirms the death of the apparent owner under subsection (2) of this section.*
- (2) *If a holder in the ordinary course of its business receives notice or an indication of the death of an apparent owner and subsection (1)(b) of this section applies, the holder shall attempt not later than ninety (90) days after receipt of the notice or indication to confirm whether the apparent owner is deceased.*
- (3) *If the holder does not send communications to the apparent owner of an account described in subsection (1) of this section by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic-mail communication not later than two (2) years after the apparent owner's last indication of interest in the property. However, the holder promptly shall attempt to contact the apparent owner by first-class United States mail if:*
 - (a) *The holder does not have information needed to send the apparent owner an electronic-mail communication or the holder believes that the apparent owner's electronic-mail address in the holder's records is not valid;*
 - (b) *The holder receives notification that the electronic-mail communication was not received; or*
 - (c) *The apparent owner does not respond to the electronic-mail communication within thirty (30) days after the communication was sent.*
- (4) *If first-class United States mail sent under subsection (3) of this section is returned to the holder undelivered by the United States Postal Service, the property shall be presumed abandoned three (3) years after the later of:*
 - (a) *Except as provided in paragraph (b) of this subsection, the date a second consecutive communication to contact the apparent owner sent by first-class United States mail is returned to the holder undelivered;*
 - (b) *If the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or*
 - (c) *The date established by subsection (1)(b) of this section.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Subject to Section 12 of this Act and except for property described in Section 5 of this Act and property held in a plan described in 26 U.S.C. sec. 529A, property held in an account or plan, including a health savings account, that qualifies for tax deferral under the income-tax laws of the United States shall be presumed abandoned if it is unclaimed by the apparent owner three (3) years after the earlier of:

- (1) *The date, if determinable by the holder, specified in the income-tax laws and regulations of the United States by which distribution of the property shall begin to avoid a tax penalty, with no distribution having been made; or*
- (2) *Thirty (30) years after the date the account was opened.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to Section 12 of this Act, property held in an account established under the Uniform Transfers to Minors Act, KRS 385.012 to 385.242, shall be presumed abandoned if it is unclaimed by or on behalf of the minor on whose behalf the account was opened three (3) years after the later of:*
 - (a) *Except as provided in paragraph (b) of this subsection, the date a second consecutive communication sent by the holder by first-class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States Postal Service;*
 - (b) *If the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was returned undelivered; or*
 - (c) *The date on which the custodian is required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of the state in which the account was opened.*
- (2) *If the holder does not send communications to the custodian of the minor on whose behalf an account described in subsection (1) of this section was opened by first-class United States mail, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an electronic-mail communication not later than two (2) years after the custodian's last indication of interest in the property. However, the holder promptly shall attempt to contact the custodian by first-class United States mail if:*
 - (a) *The holder does not have information needed to send the custodian an electronic-mail communication or the holder believes that the custodian's electronic-mail address in the holder's records is not valid;*
 - (b) *The holder receives notification that the electronic-mail communication was not received; or*
 - (c) *The custodian does not respond to the electronic-mail communication within thirty (30) days after the communication was sent.*
- (3) *If first-class United States mail sent under subsection (2) of this section is returned undelivered to the holder by the United States Postal Service, the property shall be presumed abandoned three (3) years after the later of:*
 - (a) *The date a second consecutive communication to contact the custodian by first-class United States mail is returned to the holder undelivered by the United States Postal Service; or*
 - (b) *The date established by subsection (1)(c) of this section.*
- (4) *When the property in the account described in subsection (1)(c) of this section is transferred to the minor on whose behalf an account was opened or to the minor's estate, the property in the account shall no longer be subject to this section.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Tangible property held in a safe-deposit box and proceeds from a sale of the property by the holder permitted by law of this state other than this chapter are presumed abandoned if the property remains unclaimed by the apparent owner five (5) years after the earlier of the:

- (1) *Expiration of the lease or rental period for the box; or*
- (2) *Earliest date when the lessor of the box is authorized by law of this state other than this chapter to enter the box and remove or dispose of the contents without consent or authorization of the lessee.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to Section 12 of this Act, the net card value of a stored-value card, other than a payroll card or a gift card, shall be presumed abandoned on the latest of three (3) years after:*
- (a) *December 31 of the year in which the card is issued or additional funds are deposited into it;*
 - (b) *The most recent indication of interest in the card by the apparent owner; or*
 - (c) *A verification or review of the balance by or on behalf of the apparent owner.*
- (2) *The amount presumed abandoned in a stored-value card shall be the net card value at the time it is presumed abandoned.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to Section 12 of this Act, a security shall be presumed abandoned three (3) years after:*
- (a) *The date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or*
 - (b) *If the second communication is made later than thirty (30) days after the first communication is returned, the date the first communication is returned undelivered to the holder by the United States Postal Service.*
- (2) *If the holder does not send communications to the apparent owner of a security by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an electronic-mail communication not later than two (2) years after the apparent owner's last indication of interest in the security. However, the holder promptly shall attempt to contact the apparent owner by first-class United States mail if:*
- (a) *The holder does not have information needed to send the apparent owner an electronic-mail communication or the holder believes that the apparent owner's electronic-mail address in the holder's records is not valid;*
 - (b) *The holder receives notification that the electronic-mail communication was not received; or*
 - (c) *The apparent owner does not respond to the electronic-mail communication within thirty (30) days after the communication was sent.*
- (3) *If first-class United States mail sent under subsection (2) of this section is returned to the holder undelivered by the United States Postal Service, the security shall be presumed abandoned three (3) years after the date the mail is returned.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

At and after the time property is presumed abandoned under this chapter, any other property right or interest accrued or accruing from the property and not previously presumed abandoned shall also be presumed abandoned.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *The period after which property shall be presumed abandoned shall be measured from the later of:*
- (a) *The date the property is presumed abandoned under this chapter; or*
 - (b) *The latest indication of interest by the apparent owner in the property.*
- (2) *Under this chapter, an indication of an apparent owner's interest in property includes:*
- (a) *A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;*
 - (b) *An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;*
 - (c) *Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an account, underlying security, or interest in a business association;*

- (d) *Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;*
 - (e) *A deposit into or withdrawal from an account at a financial organization, including an automatic deposit or withdrawal previously authorized by the apparent owner other than an automatic reinvestment of dividends or interest;*
 - (f) *Subject to subsection (5) of this section, payment of a premium on an insurance policy; and*
 - (g) *Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the property exists.*
- (3) *An action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner's agent, shall be presumed to be an action on behalf of the apparent owner.*
 - (4) *A communication with an apparent owner by a person other than the holder or the holder's representative shall not be an indication of interest in the property by the apparent owner unless a record of the communication evidences the apparent owner's knowledge of a right to the property.*
 - (5) *If the insured dies or the insured or beneficiary of an insurance policy otherwise becomes entitled to the proceeds before depletion of the cash surrender value of the policy by operation of an automatic-premium-loan provision or other nonforfeiture provision contained in the policy, the operation shall not prevent the policy from maturing or terminating.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "death master file" means the United States Social Security Administration Death Master File or other database or service that is at least as comprehensive as the United States Social Security Administration Death Master File for determining that an individual reportedly has died.*
- (2) *With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant, the company has knowledge of the death of an insured or annuitant when:*
 - (a) *The company receives a death certificate or court order determining that the insured or annuitant has died;*
 - (b) *The company conducts a comparison for any purpose between a death master file and the names of some or all of the company's insureds or annuitants, finds a match that provides notice that the insured or annuitant has died, and validates the death;*
 - (c) *The administrator or the administrator's agent conducts a comparison for the purpose of finding matches during an examination conducted under Sections 55 to 65 of this Act between a death master file and the names of some or all of the company's insureds or annuitants, finds a match that provides notice that the insured or annuitant has died, and the company validates the death; or*
 - (d) *The company:*
 - 1. *Receives notice of the death of the insured or annuitant from an administrator, beneficiary, policy owner, relative of the insured, or trustee or from a personal representative, executor, or other legal representative of the insured's or annuitant's estate; and*
 - 2. *Validates the death of the insured or annuitant.*
- (3) *The following rules apply under this section:*
 - (a) *A death-master-file match under subsection (2)(b) or (c) of this section occurs if the criteria for an exact or partial match are satisfied as provided by KRS 304.15-420;*
 - (b) *The death-master-file match shall not constitute proof of death for the purpose of submission to an insurance company of a claim by a beneficiary, annuitant, or owner of the policy or contract for an amount due under an insurance policy or annuity contract; and*
 - (c) *The death-master-file match or validation of the insured's or annuitant's death shall not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract.*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check or draft-writing privileges for the beneficiary of the policy or contract and, under a supplementary contract not involving annuity benefits other than death benefits, the proceeds are retained by the insurance company or the financial organization where the account is held, the policy or contract includes the assets in the account.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

In Sections 15 to 21 of this Act:

- (1) *The last-known address of an apparent owner shall be any description, code, or other indication of the location of the apparent owner which identifies the state, even if the description, code, or indication of location shall not be sufficient to direct the delivery of first-class United States mail to the apparent owner;*
- (2) *If the United States postal zip code associated with the apparent owner is for a post office located in this state, this state shall be deemed to be the state of the last-known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner to be in another state;*
- (3) *If the address under subsection (2) of this section is in another state, the other state shall be deemed to be the state of the last-known address of the apparent owner; and*
- (4) *The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds shall be presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be determined under Section 16 of this Act.*

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

The administrator may take custody of property that is presumed abandoned, whether located in this state, another state, or a foreign country if:

- (1) *The last-known address of the apparent owner in the records of the holder is in this state; or*
- (2) *The records of the holder do not reflect the identity or last-known address of the apparent owner, but the administrator has determined that the last-known address of the apparent owner is in this state.*

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section, if records of a holder reflect multiple addresses for an apparent owner and this state is the state of the most recently recorded address, this state may take custody of property presumed abandoned, whether located in this state or another state.*
- (2) *If it appears from records of the holder that the most recently recorded address of the apparent owner under subsection (1) of this section is a temporary address and this state is the state of the next most recently recorded address that is not a temporary address, this state may take custody of the property presumed abandoned.*

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section or Section 16 or 17 of this Act, the administrator may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country, if the holder is domiciled in this state or is this state or a governmental subdivision, agency, or instrumentality of this state, and:*
 - (a) *Another state or foreign country shall not be entitled to the property because there is no last-known address of the apparent owner or other person entitled to the property in the records of the holder; or*
 - (b) *The state or foreign country of the last-known address of the apparent owner or other person entitled to the property does not provide for custodial taking of the property.*
- (2) *Property shall not be subject to the custody of the administrator under subsection (1) of this section if the property is specifically exempt from custodial taking under the law of this state or the state or foreign country of the last-known address of the apparent owner.*
- (3) *If a holder's state of domicile has changed since the time property was presumed abandoned, the holder's state of domicile in this section shall be deemed to be the state where the holder was domiciled at the time the property was presumed abandoned.*

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Except as in Section 16, 17, or 18 of this Act, the administrator may take custody of property presumed abandoned whether located in this state or another state if:

- (1) The transaction out of which the property arose took place in this state;*
- (2) The holder is domiciled in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the holder's domicile, the property shall not be subject to the custody of the administrator; and*
- (3) The last-known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the last-known address, the property shall not be subject to the custody of the administrator.*

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

The administrator may take custody of sums payable on a traveler's check, money order, or similar instrument presumed abandoned to the extent permissible under 12 U.S.C. secs. 2501 to 2503, as amended.

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

If the administrator asserts a right to custody of unclaimed property, the administrator has the burden to prove:

- (1) The existence and amount of the property;*
- (2) The property shall be presumed abandoned; and*
- (3) The property shall be subject to the custody of the administrator.*

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property. A holder shall not be required to file a report if the holder has no property that is presumed abandoned. The administrator shall not require a holder to file a paper report.*
- (2) A holder may contract with a third party to make the report required under subsection (1) of this section.*
- (3) Whether or not a holder contracts with a third party under subsection (2) of this section, the holder shall be responsible:*
 - (a) To the administrator for the complete, accurate, and timely reporting of property presumed abandoned; and*
 - (b) For paying or delivering to the administrator property described in the report.*

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) The report required under Section 22 of this Act shall:*
 - (a) Be signed by or on behalf of the holder and verified as to its completeness and accuracy;*
 - (b) If filed electronically, be in a secure format approved by the administrator which protects confidential information of the apparent owner in the same manner as required of the administrator and the administrator's agent under Sections 77 to 83 of this Act;*
 - (c) Describe the property;*
 - (d) Except for a traveler's check, money order, or similar instrument, contain the name, if known, last-known address, if known, and Social Security number or taxpayer identification number, if known or readily ascertainable, of the apparent owner of property with a value of fifty dollars (\$50) or more;*
 - (e) For an amount held or owing under a life or endowment insurance policy or annuity contract, contain the name and last-known address of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;*
 - (f) For property held in or removed from a safe-deposit box, indicate the location of the property, where it may be inspected by the administrator, and any amounts owed to the holder under Section 36 of this Act;*

- (g) *Contain the commencement date for determining abandonment under Sections 4 to 14 of this Act;*
 - (h) *State that the holder has complied with the notice requirements of Section 27 of this Act;*
 - (i) *Identify property that is a non-freely transferable security and explain why it is a non-freely transferable security; and*
 - (j) *Contain other information the administrator prescribes.*
- (2) *A report under Section 22 of this Act may include in the aggregate items valued under fifty dollars (\$50) each. If the report includes items in the aggregate valued under fifty dollars (\$50) each, the administrator shall not require the holder to provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.*
 - (3) *A report under Section 22 of this Act may include personal information as described in subsection (1) of Section 78 of this Act about the apparent owner or the apparent owner's property to the extent not otherwise prohibited by federal law.*
 - (4) *If a holder has changed its name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder shall include in the report under Section 22 of this Act its former name or the name of the previous holder, if any, and the known name and address of each previous holder of the property.*

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section, and subject to subsection (3) of this section, the report under Section 22 of this Act shall be filed before November 1 of each year and cover the 12 months preceding July 1 of that year.*
- (2) *Subject to subsection (3) of this section, the report under Section 22 of this Act to be filed by an insurance company shall be filed before May 1 of each year for the immediately preceding calendar year.*
- (3) *Before the date for filing the report under Section 22 of this Act, the holder of property presumed abandoned may request the administrator extend the time for filing. The administrator may grant an extension. If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid.*

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

A holder required to file a report under Section 22 of this Act shall retain records for ten (10) years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period shall be provided by rule of the administrator. The holder may satisfy the requirement to retain records under this section through an agent. The records shall contain:

- (1) *The information required to be included in the report;*
- (2) *The date, place, and nature of the circumstances that gave rise to the property right;*
- (3) *The amount or value of the property;*
- (4) *The last address of the apparent owner, if known to the holder; and*
- (5) *If the holder sells, issues, or provides to others for sale or issue in this state traveler's checks, money orders, or similar instruments, other than third-party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue.*

➔SECTION 26. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Property shall be reportable and payable or deliverable under this chapter even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

➔SECTION 27. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to subsection (2) of this section, the holder of property presumed abandoned shall send to the apparent owner notice by first-class United States mail that complies with Section 28 of this Act in a format acceptable to the administrator not more than one hundred eighty (180) days nor less than sixty (60) days before filing the report under Section 22 of this Act if:*

- (a) *The holder has in its records an address for the apparent owner which the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first-class United States mail to the apparent owner; and*
- (b) *The value of the property is fifty dollars (\$50) or more.*
- (2) *If an apparent owner has consented to receive electronic-mail delivery from the holder, the holder shall send the notice described in subsection (1) of this section both by first-class United States mail to the apparent owner's last-known mailing address and by electronic mail, unless the holder believes that the apparent owner's electronic-mail address is invalid.*

➔SECTION 28. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Notice under Section 27 of this Act shall contain a heading that reads substantially as follows: "Notice. The Commonwealth of Kentucky requires us to notify you that your property may be transferred to the custody of the Kentucky State Treasurer if you do not contact us before (insert date that is thirty (30) days after the date of this notice)."*
- (2) *The notice under Section 27 of this Act shall:*
 - (a) *Identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;*
 - (b) *State that the property shall be turned over to the administrator;*
 - (c) *State that after the property is turned over to the administrator, an apparent owner that seeks return of the property shall file a claim with the administrator;*
 - (d) *State that property that is not legal tender of the United States may be sold by the administrator; and*
 - (e) *Provide instructions that the apparent owner shall follow to prevent the holder from reporting and paying or delivering the property to the administrator.*

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *The administrator shall give notice to an apparent owner that property presumed abandoned and appears to be owned by the apparent owner shall be held by the administrator under this chapter.*
- (2) *In providing notice under subsection (1) of this section, the administrator shall:*
 - (a) *Not be required to use newspaper publication to provide notice; and*
 - (b) *Maintain a Web site or database accessible by the public and electronically searchable that contains the names reported to the administrator of all apparent owners for whom property is being held by the administrator.*
- (3) *The Web site or database maintained under subsection (2)(b) of this section shall include instructions for filing with the administrator a claim to property and a printable claim form with instructions for its use.*
- (4) *In addition to giving notice under subsection (2) of this section, the administrator may use printed publication, telecommunication, the Internet, or other media to inform the public of the existence of unclaimed property held by the administrator.*

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Unless prohibited by law other than this chapter, on request of the administrator, each officer, agency, board, commission, division, and department of this state, any body politic and corporate created by this state for a public purpose, and each political subdivision of this state shall make its books and records available to the administrator and cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator under this chapter.

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

In Sections 31 to 39 of this Act, payment or delivery of property shall be made in good faith if a holder:

- (1) *Had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the administrator under this chapter; or*
- (2) *Made payment or delivery:*
 - (a) *In response to a demand by the administrator or administrator's agent; or*

- (b) *Under a guidance or ruling issued by the administrator which the holder reasonably believed required or permitted the property to be paid or delivered.*

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator if:*
 - (a) *A valid contract between the holder and the apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and*
 - (b) *The holder regularly imposes the charge and regularly does not reverse or otherwise cancel the charge.*
- (2) *The amount of the deduction under subsection (1) of this section shall be limited to an amount that shall not be unconscionable considering all relevant factors, including the marginal transactional costs incurred by the holder in maintaining the apparent owner's property and any services received by the apparent owner.*

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in this section, on filing a report under Section 22 of this Act, the holder shall pay or deliver to the administrator the property described in the report.*
- (2) *If property in a report under Section 22 of this Act is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.*
- (3) *Tangible property in a safe-deposit box shall not be delivered to the administrator until one hundred twenty (120) days after filing the report under Section 22 of this Act.*
- (4) *If property reported to the administrator under Section 22 of this Act is a security, the administrator may:*
 - (a) *Make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, its transfer agent, or the securities intermediary to transfer the security; or*
 - (b) *Dispose of the security under Section 41 of this Act.*
- (5) *If the holder of property reported to the administrator under Section 22 of this Act is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book-entry form under KRS 355.8-405. An indemnity bond shall not be required.*
- (6) *The administrator shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the administrator by a holder.*
- (7) *An issuer, holder, and transfer agent or other person acting under this section under instructions of and on behalf of the issuer or holder shall not be liable to the apparent owner for, and shall be indemnified by the state against, a claim arising with respect to property after the property has been delivered to the administrator.*
- (8) *A holder shall not be required to deliver to the administrator a security identified by the holder as a non-freely transferable security. If the administrator or holder determines that a security is no longer a non-freely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities under this act. The holder shall make a determination annually whether a security identified in a report filed under Section 22 of this Act as a non-freely transferable security is no longer a non-freely transferable security.*

➔SECTION 34. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *On payment or delivery of property to the administrator under this chapter, the administrator as agent for the state assumes custody and responsibility for safekeeping the property. A holder that pays or delivers property to the administrator in good faith and substantially complies with Sections 27 and 28 of this Act shall be relieved of liability arising thereafter with respect to payment or delivery of the property to the administrator.*

- (2) *This state shall defend and indemnify a holder against liability on a claim against the holder resulting from the payment or delivery of property to the administrator made in good faith and after the holder substantially complied with Sections 27 and 28 of this Act.*

➔SECTION 35. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *A holder that pays money to the administrator under this chapter may file a claim for reimbursement from the administrator of the amount paid if the holder:*
- (a) *Paid the money in error; or*
 - (b) *After paying the money to the administrator, paid money to a person the holder reasonably believed to be entitled to the money.*
- (2) *If a claim for reimbursement under subsection (1) of this section is made for a payment made on a negotiable instrument, including a traveler's check, money order, or similar instrument, the holder shall submit proof that the instrument was presented and payment was made to a person the holder reasonably believed entitled to payment. The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order.*
- (3) *A holder that delivers property other than money to the administrator under this chapter may file a claim under section 51 of this Act for return of the property from the administrator if:*
- (a) *The holder delivered the property in error; or*
 - (b) *The apparent owner has claimed the property from the holder.*
- (4) *If a claim for return of property under subsection (3) of this section is made, the holder shall include with the claim evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the administrator in error.*
- (5) *The administrator may determine that an affidavit submitted by a holder is evidence sufficient to establish that the holder shall be entitled to reimbursement or to recover property under this section.*
- (6) *A holder shall not be required to pay a fee or other charge for reimbursement or return of property under this section.*
- (7) *Not later than ninety (90) days after a claim is filed under subsection (1) or (3) of this section, the administrator shall allow or deny the claim and give the claimant notice of the decision in a record. If the administrator does not take action on a claim during the ninety (90) day period, the claim shall be deemed denied.*
- (8) *The claimant may initiate a proceeding under KRS Chapter 13B for review of the administrator's decision or the deemed denial under subsection (7) of this section not later than:*
- (a) *Thirty (30) days following receipt of the notice of the administrator's decision; or*
 - (b) *One hundred twenty (120) days following the filing of a claim under subsection (1) or (3) of this section in the case of a deemed denial under subsection (7) of this section.*
- (9) *A final decision in an administrative proceeding initiated under subsection (8) of this section shall be subject to judicial review under KRS Chapter 13B.*

➔SECTION 36. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Property removed from a safe-deposit box and delivered under this Act to the administrator shall be subject to the holder's right to reimbursement for the cost of opening the box and a lien or contract providing reimbursement to the holder for unpaid rent charges for the box. The administrator shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the administrator in selling the property.

➔SECTION 37. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *The administrator may decline to take custody of property reported under Section 22 of this Act if the administrator determines that:*
- (a) *The property has a value less than the estimated expenses of notice and sale of the property; or*
 - (b) *Taking custody of the property would be unlawful.*

- (2) *A holder may pay or deliver property to the administrator before the property shall be presumed abandoned under this chapter if the holder:*
- (a) *Sends the apparent owner of the property notice required by Section 27 of this Act and provides the administrator evidence of the holder's compliance with this paragraph;*
 - (b) *Includes with the payment or delivery a report regarding the property conforming to Section 23 of this Act; and*
 - (c) *First obtains the administrator's consent in a record to accept payment or delivery.*
- (3) *A holder's request for the administrator's consent under subsection (2)(c) of this section shall be in a record. If the administrator fails to respond to the request not later than thirty (30) days after receipt of the request, the administrator shall be deemed to consent to the payment or delivery of the property and the payment or delivery shall be considered to have been made in good faith.*
- (4) *On payment or delivery of property under subsection (2) of this section, the property shall be presumed abandoned.*

➔SECTION 38. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *If the administrator takes custody of property delivered under this chapter and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the administrator may return the property to the holder or destroy or otherwise dispose of the property.*
- (2) *In disposing of property under subsection (1) of this section, the administrator may deliver the property to the Kentucky Historical Society, or any other museum, historical society, or organization approved by the administrator, and on such terms as the administrator deems appropriate. Upon delivery of the property to a third party described in this subsection, the administrator shall no longer be responsible for the safekeeping of the property.*
- (3) *An action or proceeding shall not be commenced against the state, an agency of the state, the administrator, another officer, employee, or agent of the state, or a holder for or because of an act of the administrator under this section, except for intentional misconduct or malfeasance.*

➔SECTION 39. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Expiration, before, on, or after the effective date of this Act, of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute, or court order, shall not prevent the property from being presumed abandoned or affect the duty of a holder under this chapter to file a report or pay or deliver property to the administrator.*
- (2) *The administrator shall not commence an action or proceeding to enforce this chapter with respect to the reporting, payment, or delivery of property more than five (5) years after the holder filed a non-fraudulent report under Section 22 of this Act with the administrator. The parties may agree in a record to extend the limitation in this subsection.*
- (3) *The administrator shall not commence an action, proceeding, or examination with respect to a duty of a holder under this chapter more than ten (10) years after the duty arose.*

➔SECTION 40. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to Section 41 of this Act, the administrator may sell the property no earlier than three (3) years after receipt of property presumed abandoned.*
- (2) *Before selling property under subsection (1) of this section, the administrator shall give notice to the public of:*
 - (a) *The date of the sale; and*
 - (b) *A reasonable description of the property.*
- (3) *A sale under subsection (1) of this section shall be to the highest bidder:*
 - (a) *At public sale at a location in this state which the administrator determines to be the most favorable market for the property;*
 - (b) *On the Internet; or*

(c) *On another forum the administrator determines is likely to yield the highest net proceeds of sale.*

- (4) *The administrator may decline the highest bid at a sale under this section and reoffer the property for sale if the administrator determines the highest bid is insufficient.*
- (5) *If a sale held under this section is to be conducted other than on the Internet, the administrator shall publish at least one (1) notice of the sale, at least three (3) weeks but not more than five (5) weeks before the sale, in a newspaper of general circulation in the county in which the property is sold.*

➔SECTION 41. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *The administrator shall not sell or otherwise liquidate a security until three (3) years after the administrator receives the security and gives the apparent owner notice under Section 29 of this Act that the administrator holds the security.*
- (2) *The administrator shall not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale. The administrator may sell a security not listed on an established exchange by any commercially reasonable method.*

➔SECTION 42. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *If securities are sold by the administrator before the expiration of three (3) years after their delivery to the administrator, a person making a claim under this chapter before the end of the three (3) year period shall be entitled to the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, plus dividends, interest, and other increments up to the time the claim is made, less any deduction for expenses of the sale.*
- (2) *A person making a claim under this chapter after the expiration of the three (3) year period shall be entitled to receive the securities delivered to the administrator by the holder, if the securities remain in the custody of the administrator, or the net proceeds received from the sale, and shall not be entitled to receive any appreciation in the value of the property occurring after the delivery to the administrator.*

➔SECTION 43. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

A purchaser of property at a sale conducted by the administrator under this chapter takes the property free of all claims of the owner, a previous holder, or a person claiming through the owner or holder. The administrator shall execute documents necessary to complete the transfer of ownership to the purchaser.

➔SECTION 44. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *The administrator shall not sell a medal or decoration awarded for military service in the Armed Forces of the United States.*
- (2) *The administrator, with the consent of the respective organization under paragraphs (a) to (c) of this subsection, may deliver a medal or decoration described in subsection (1) of this section to be held in custody for the owner, to:*
 - (a) *A military veterans organization qualified under 26 U.S.C. sec. 501(c)(19);*
 - (b) *The agency that awarded the medal or decoration;*
 - (c) *The Kentucky Historical Society, or any museum or historical society approved by the administrator;*
or
 - (d) *A governmental entity.*

- (3) *On delivery under subsection (2) of this section, the administrator shall not be responsible for safekeeping the medal or decoration.*

➔SECTION 45. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

The administrator shall deposit in the State Treasury all funds received under this chapter, including proceeds from the sale of property under Sections 40 to 44 of this Act.

➔SECTION 46. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

The administrator shall:

- (1) *Record and retain the name and last-known address of each person shown on a report filed under Section 22 of this Act to be the apparent owner of property delivered to the administrator;*

- (2) *Record and retain the name and last-known address of each insured or annuitant and beneficiary shown on the report;*
- (3) *For each policy of insurance or annuity contract listed in the report of an insurance company, record and retain the policy or account number, the name of the company, and the amount due or paid; and*
- (4) *For each apparent owner listed in the report, record and retain the name of the holder that filed the report and the amount due or paid.*

➔SECTION 47. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to the expenses permitted under Section 92 of this Act, the administrator may deduct:*
 - (a) *Expenses of disposition of property delivered to the administrator under this chapter;*
 - (b) *Costs of mailing and publication in connection with property delivered to the administrator under this chapter;*
 - (c) *Reasonable service charges; and*
 - (d) *Expenses incurred in examining records of or collecting property from a putative holder or holder.*
- (2) *In addition to any expenses in subsection (1) of this section, the administrator shall deduct the proportionate costs of advertisement and operations from the amount of any claim allowed in an amount greater than ten dollars (\$10). The administrator shall deduct at least one dollar (\$1).*

➔SECTION 48. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Property received by the administrator under this chapter shall be held in custody for the benefit of the owner and shall not be owned by the state.

➔SECTION 49. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *If the administrator knows that property held by the administrator under this chapter is subject to a superior claim of another state, the administrator shall:*
 - (a) *Report and pay or deliver the property to the other state; or*
 - (b) *Return the property to the holder so that the holder may pay or deliver the property to the other state.*
- (2) *The administrator shall not be required to enter into an agreement to transfer property to the other state under subsection (1) of this section.*

➔SECTION 50. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Property held under this chapter by the administrator shall be subject to the right of another state to take custody of the property if:*
 - (a) *The property was paid or delivered to the administrator because the records of the holder did not reflect a last-known address in the other state of the apparent owner and:*
 1. *The other state establishes that the last-known address of the apparent owner or other person entitled to the property was in the other state; or*
 2. *Under the law of the other state, the property has become subject to a claim by the other state of abandonment;*
 - (b) *The records of the holder did not accurately identify the owner of the property, the last-known address of the owner was in another state, and, under the law of the other state, the property has become subject to a claim by the other state of abandonment;*
 - (c) *The property was subject to the custody of the administrator of this state under Section 19 of this Act and, under the law of the state of domicile of the holder, the property has become subject to a claim of abandonment by the state of domicile of the holder; or*
 - (d) *The property:*
 1. *Is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered to the administrator under Section 20 of this Act; and*
 2. *Under the law of the other state, has become subject to a claim by the other state of abandonment.*

- (2) *A claim by another state to recover property under this section shall be presented in a form prescribed by the administrator, unless the administrator waives presentation of the form.*
- (3) *The administrator shall decide a claim under this section not later than ninety (90) days after it is presented. If the administrator determines that the other state is entitled under subsection (1) of this section to custody of the property, the administrator shall allow the claim and pay or deliver the property to the other state.*
- (4) *The administrator may require another state, before recovering property under this section, to agree to indemnify this state and its agents, officers, and employees against any liability on a claim to the property.*

➔SECTION 51. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *A person claiming to be the owner of property held under this chapter by the administrator may file a claim for the property on a form prescribed by the administrator. The claimant shall verify the claim as to its completeness and accuracy.*
- (2) *The administrator may permit persons claiming to be the owner of property to submit claims in electronic format.*
- (3) *The administrator may waive the requirement in subsection (1) of this section and may pay or deliver property directly to a person if:*
 - (a) *The person receiving the property or payment is shown to be the apparent owner included on a report filed under Section 22 of this Act;*
 - (b) *The administrator reasonably believes the person is entitled to receive the property or payment; and*
 - (c) *The property has a value of less than two hundred fifty dollars (\$250).*

➔SECTION 52. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *The administrator shall pay or deliver property to a claimant under subsection (1) of Section 51 of this Act if the administrator receives evidence sufficient to establish to the satisfaction of the administrator that the claimant is the owner of the property.*
- (2) *Not later than ninety (90) days after a claim is filed under subsection (1) of Section 51 of this Act, the administrator shall allow or deny the claim and give the claimant notice in a record of the decision.*
- (3) *If the claim is denied under subsection (2) of this section:*
 - (a) *The administrator shall inform the claimant of the reason for the denial and specify what additional evidence, if any, is required for the claim to be allowed;*
 - (b) *The claimant may file an amended claim with the administrator or request and administrative hearing under Section 54 of this Act; and*
 - (c) *The administrator shall consider an amended claim filed under paragraph (b) of this subsection as an initial claim.*
- (4) *If the administrator does not take action on a claim during the ninety (90) day period following the filing of a claim under subsection (1) of Section 51 of this Act, the claim shall be deemed denied.*

➔SECTION 53. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Not later than thirty (30) days after a claim is allowed under subsection (2) of Section 52 of this Act, the administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property. On request of the owner, the administrator may sell or liquidate a security and pay the net proceeds to the owner, even if the security had been held by the administrator for less than three (3) years or the administrator has not complied with the notice requirements under Section 41 of this Act.*
- (2) *Property held under this chapter by the administrator shall be subject to a claim for the payment of an enforceable debt the owner owes in this state for:*
 - (a) *Child-support arrearages, including child-support collection costs and child-support arrearages that are combined with maintenance;*
 - (b) *A civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed by a final order of an administrative agency or a final court judgment; or*

- (c) *State or local taxes, penalties, and interest that have been determined to be delinquent or as to which notice has been recorded with the county sheriff or local taking authority.*
- (3) *Before delivery or payment to an owner under subsection (1) of this section of property or payment to the owner of net proceeds of a sale of the property, the administrator first shall apply the property or net proceeds to a debt under subsection (2) of this section the administrator determines is owed by the owner. The administrator shall pay the amount to the appropriate state or local agency and notify the owner of the payment.*
- (4) *The administrator may make periodic inquiries of state and local agencies in the absence of a claim filed under Section 51 of this Act to determine whether an apparent owner included in the unclaimed-property records of this state have enforceable debts described in subsection (2) of this section. The administrator first shall apply the property or net proceeds of a sale of property held by the administrator to a debt under subsection (2) of this section of an apparent owner which appears in the records of the administrator and deliver the amount to the appropriate state or local agency. The administrator shall notify the apparent owner of the payment.*

➔SECTION 54. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Not later than one (1) year after filing a claim under subsection (1) of Section 51 of this Act, the claimant may request in writing an administrative hearing, to be conducted in accordance with KRS Chapter 13B.

➔SECTION 55. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

If a person does not file a report required by Section 22 of this Act or the administrator believes that a person may have filed an inaccurate, incomplete, or false report, the administrator may require the person to file a verified report in a form prescribed by the administrator. The verified report shall:

- (1) *State whether the person is holding property reportable under this chapter;*
- (2) *Describe property not previously reported or about which the administrator has inquired;*
- (3) *Specifically identify property described under subsection (2) of this section about which there is a dispute whether it is reportable under this chapter; and*
- (4) *State the amount or value of the property.*

➔SECTION 56. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

The administrator, at reasonable times and on reasonable notice, may:

- (1) *Examine the records of a person, including examination of appropriate records in the possession of an agent of the person under examination, if the records are reasonably necessary to determine whether the person has complied with this chapter;*
- (2) *Issue an administrative subpoena requiring the person or agent of the person to make records available for examination; and*
- (3) *Bring an action seeking judicial enforcement of the subpoena.*

➔SECTION 57. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *The administrator shall promulgate administrative regulations in accordance with KRS Chapter 13A governing procedures and standards for an examination under Section 56 of this Act, including rules for use of an estimation, extrapolation, and statistical sampling in conducting an examination.*
- (2) *An examination under Section 56 of this Act shall be performed under administrative regulations promulgated under subsection (1) of this section and with generally accepted examination practices and standards applicable to an unclaimed-property examination.*
- (3) *If a person subject to examination under Section 56 of this Act has filed the reports required under Sections 22 and 55 of this Act and has retained the records required by Section 25 of this Act, the following shall apply to the examination:*
 - (a) *The examination shall include a review of the person's records;*
 - (b) *The examination shall not be based on an estimate unless the person expressly consents in a record to the use of an estimate; and*

- (c) *The person conducting the examination shall consider the evidence presented in good faith by the person in preparing the findings of the examination under Section 61 of this Act.*

➔SECTION 58. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Records obtained and records, including work papers, compiled by the administrator in the course of conducting an examination under Section 56 of this Act:

- (1) *Shall be subject to the confidentiality and security provisions of Sections 77 to 83 of this Act and are not public records;*
- (2) *May be used by the administrator in an action to collect property or otherwise enforce this chapter;*
- (3) *May be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity if the governmental entity conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to Sections 77 to 83 of this Act;*
- (4) *Shall be disclosed, on request, to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in this Sections 55 to 65 of this Act, if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to Sections 77 to 83 of this Act;*
- (5) *Shall be produced by the administrator under an administrative or judicial subpoena or administrative or court order; and*
- (6) *Shall be produced by the administrator on request of the person subject to the examination in an administrative or judicial proceeding relating to the property.*

➔SECTION 59. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *A record of a putative holder showing an unpaid debt or undischarged obligation shall be prima facie evidence of the debt or obligation.*
- (2) *A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in subsection (1) of this section or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.*
- (3) *A putative holder may overcome prima facie evidence under subsection (1) of this section by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:*
 - (a) *Issued as an unaccepted offer in settlement of an unliquidated amount;*
 - (b) *Issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;*
 - (c) *Issued to a party affiliated with the issuer;*
 - (d) *Paid, satisfied, or discharged;*
 - (e) *Issued in error;*
 - (f) *Issued without consideration;*
 - (g) *Issued but there was a failure of consideration;*
 - (h) *Voided not later than ninety (90) daysafter issuance for a valid business reason set forth in a contemporaneous record; or*
 - (i) *Issued but not delivered to the third-party payee for a sufficient reason recorded within a reasonable time after issuance.*
- (4) *In asserting a defense under this section, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner or of custom and practice.*

➔SECTION 60. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

If a person subject to examination under Section 56 of this Act does not retain the records required by Section 25 of this Act, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling

when appropriate and necessary, consistent with examination procedures and standards adopted under Section 57 of this Act.

➔SECTION 61. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

At the conclusion of an examination under Section 56 of this Act, the administrator shall provide to the person whose records were examined a complete and unredacted examination report that specifies:

- (1) The work performed;*
- (2) The property types reviewed;*
- (3) The methodology of any estimation technique, extrapolation, or statistical sampling used in conducting the examination;*
- (4) Each calculation showing the value of property determined to be due; and*
- (5) The findings of the person conducting the examination.*

➔SECTION 62. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) If a person subject to examination under Section 56 of this Act believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may ask the administrator to intervene and take appropriate remedial action, including countermanning the request of the person conducting the examination, imposing a time limit for completion of the examination, or reassigning the examination to another person.*
- (2) If a person in a record requests a conference with the administrator to present matters that are the basis of a request under subsection (1) of this section, the administrator shall hold the conference not later than thirty (30) days after receiving the request. The administrator may hold the conference in person, by telephone, or by electronic means.*
- (3) If a conference is held under subsection (2) of this section, not later than thirty (30) days after the conference ends, the administrator shall provide a report in a record of the conference to the person that requested the conference.*

➔SECTION 63. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section, "related to the administrator" means an individual who is:*
 - (a) The administrator's spouse, partner in a civil union, domestic partner, or reciprocal beneficiary;*
 - (b) The administrator's child, stepchild, grandchild, parent, stepparent, sibling, stepsibling, half-sibling, aunt, uncle, niece, or nephew;*
 - (c) A spouse, partner in a civil union, domestic partner, or reciprocal beneficiary of an individual in paragraph (b) of this section; or*
 - (d) Any individual residing in the administrator's household.*
- (2) The administrator may contract with a person to conduct an examination under Sections 55 to 65 of this Act.*
- (3) If the person with whom the administrator contracts under subsection (2) of this section is:*
 - (a) An individual, the individual shall not be related to the administrator; or*
 - (b) A business entity, the entity shall not be owned in whole or in part by the administrator or an individual related to the administrator.*
- (4) If the administrator contracts with a person under subsection (2) of this section:*
 - (a) The contract may provide for compensation of the person based on a fixed fee, hourly fee, or contingent fee;*
 - (b) A contingent fee arrangement shall not provide for a payment that exceeds ten percent (10%) of the amount or value of property paid or delivered as a result of the examination; and*

- (c) *On request by a person subject to examination by a contractor, the administrator shall deliver to the person a complete and unredacted copy of the contract and any contract between the contractor and a person employed or engaged by the contractor to conduct the examination.*

(5) *A contract under subsection (2) of this section shall be subject to KRS 61.870 to 61.884.*

➔SECTION 64. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

The administrator or an individual employed by the administrator who participates in, recommends, or approves the award of a contract under Section 63 of this Act on or after the effective date of this Act shall not be employed by, contract with, or compensated in any capacity by the contractor or an affiliate of the contractor for two (2) years after the latest of participation in, recommendation of, or approval of the award or conclusion of the contract.

➔SECTION 65. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

If the administrator determines from an examination conducted under Section 56 of this Act that a putative holder failed or refused to pay or deliver to the administrator property which is reportable under this chapter, the administrator shall issue a determination of the putative holder's liability to pay or deliver and give notice in a record to the putative holder of the determination.

➔SECTION 66. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Not later than thirty (30) days after receipt of a notice under Section 65 of this Act, the putative holder may request an informal conference with the administrator to review the determination. Except as otherwise provided in this section, the administrator may designate an employee to act on behalf of the administrator.*
- (2) *If a putative holder makes a timely request under subsection (1) of this section for an informal conference:*
 - (a) *Not later than twenty (20) days after the date of the request, the administrator shall set the time and place of the conference;*
 - (b) *The administrator shall give the putative holder notice in a record of the time and place of the conference;*
 - (c) *The conference may be held in person, by telephone, or by electronic means, as determined by the administrator;*
 - (d) *The request tolls the ninety (90) day period under Sections 68 and 69 of this Act until notice of a decision under paragraph (g) of this subsection has been given to the putative holder or the putative holder withdraws the request for the conference;*
 - (e) *The conference may be postponed, adjourned, and reconvened as the administrator determines appropriate;*
 - (f) *The administrator or administrator's designee with the approval of the administrator may modify a determination made under Section 65 of this Act or withdraw it; and*
 - (g) *The administrator shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than twenty (20) days after the conference ends.*
- (3) *A conference under subsection (2) of this section shall not be an administrative remedy and shall not be a contested case subject to KRS Chapter 13B. An oath shall not be required and rules of evidence shall not apply in the conference.*
- (4) *At a conference under subsection (2) of this section, the putative holder shall be given an opportunity to confer informally with the administrator and the person that examined the records of the putative holder to:*
 - (a) *Discuss the determination made under Section 65 of this Act; and*
 - (b) *Present any issue concerning the validity of the determination.*
- (5) *If the administrator fails to act within the period prescribed in paragraph (a) or (g) of subsection (2) of this section, the failure shall not affect a right of the administrator, except that interest shall not accrue on the amount for which the putative holder was determined to be liable under Section 65 of this Act during the period in which the administrator failed to act until the earlier of:*
 - (a) *The date under Section 68 of this Act the putative holder initiates administrative review or files an action under Section 69 of this Act; or*

- (b) *Ninety (90) days after the putative holder received notice of the administrator's determination under Section 68 of this Act if no review was initiated under Section 68 of this Act and no action was filed under Section 69 of this Act.*
- (6) *The administrator may hold an informal conference with a putative holder about a determination under Section 65 of this Act without a request at any time before the putative holder initiates administrative review under Section 68 of this Act or files an action under Section 69 of this Act.*
- (7) *Interest and penalties under Section 73 of this Act continue to accrue on property not reported, paid, or delivered as required by this chapter after the initiation, and during the pendency, of an informal conference under this section.*

➔SECTION 67. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

A putative holder may seek relief from a determination under Section 65 of this Act by:

- (1) *Administrative review under Section 68 of this Act; or*
- (2) *Judicial review under Section 69 of this Act.*

➔SECTION 68. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Not later than ninety (90) days after receiving notice of the administrator's determination under Section 65 of this Act, a putative holder may initiate a proceeding under KRS Chapter 13B for review of the administrator's determination.*
- (2) *A final decision in an administrative proceeding initiated under subsection (1) of this section shall be subject to judicial review under KRS Chapter 13B.*

➔SECTION 69. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Not later than ninety (90) days after receiving notice of the administrator's determination under Section 65 of this Act, the putative holder may:*
 - (a) *File an action against the administrator in the appropriate court challenging the administrator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or*
 - (b) *Pay the amount or deliver the property determined by the administrator to be paid or delivered to the administrator and, not later than six (6) months after payment or delivery, file an action against the administrator in the appropriate court for a refund of all or part of the amount paid or return of all or part of the property delivered.*
- (2) *If a putative holder pays or delivers property the administrator determined shall be paid or delivered to the administrator at any time after the putative holder files an action under subsection (1)(a) of this section, the court shall continue the action as if it had been filed originally as an action for a refund or return of property under subsection (1)(b) of this section.*

➔SECTION 70. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *If a determination under Section 65 of this Act becomes final and not subject to administrative or judicial review, the administrator may commence an action in the court or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property. The action shall be brought not later than one (1) year after the determination becomes final.*
- (2) *In an action under subsection (1) of this section, if no court in this state has jurisdiction over the defendant, the administrator may commence an action in any court having jurisdiction over the defendant.*

➔SECTION 71. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to subsection (2) of this section, the administrator may:*
 - (a) *Exchange information with another state or foreign country relating to property presumed abandoned or relating to the possible existence of property presumed abandoned; and*
 - (b) *Authorize in a record another state or foreign country or a person acting on behalf of the other state or country to examine its records of a putative holder as provided in Sections 55 to 65 of this Act.*

- (2) *An exchange or examination under subsection (1) of this section may be done only if the state or foreign country has confidentiality and security requirements substantially equivalent to those in Sections 77 to 83 of this Act or agrees in a record to be bound by this state's confidentiality and security requirements.*

➔SECTION 72. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *The administrator may join another state or foreign country to examine and seek enforcement of this chapter against a putative holder.*
- (2) *On request of another state or foreign country, the Attorney General may commence an action on behalf of the other state or country to enforce, in this state, the law of the other state or country against a putative holder subject to a claim by the other state or country, if the other state or country agrees to pay costs incurred by the Attorney General in the action.*
- (3) *The administrator may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in the other state or country on behalf of the administrator. This state shall pay the costs, including reasonable attorney's fees and expenses, incurred by the other state or foreign country in an action under this subsection.*
- (4) *The administrator may pursue an action on behalf of this state to recover property subject to this chapter but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator.*
- (5) *The administrator may retain an attorney in this state, another state, or a foreign country to commence an action to recover property on behalf of the administrator and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee, or a percentage of the amount or value of property recovered in the action.*
- (6) *Expenses incurred by this state in an action under this section may be paid from property received under this chapter or the net proceeds of the property. Expenses paid to recover property shall not be deducted from the amount that is subject to a claim under this chapter by the owner.*

➔SECTION 73. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *A holder that fails to report, pay, or deliver property within the time prescribed by this chapter shall pay to the administrator interest at the tax interest rate determined under KRS 131.183 on the property or value of the property from the date the property should have been reported, paid, or delivered to the administrator until the date reported, paid, or delivered.*
- (2) *Except as otherwise provided in Sections 74 or 75 of this Act, the administrator may require a holder that fails to report, pay, or deliver property within the time prescribed by this chapter to pay to the administrator, in addition to interest included under subsection (1) of this section, a civil penalty of two hundred dollars (\$200) for each day the duty is not performed, up to a cumulative maximum amount of five thousand dollars (\$5,000).*

➔SECTION 74. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this chapter or otherwise willfully fails to perform a duty imposed on the holder under this chapter, the administrator may require the holder to pay the administrator, in addition to interest as provided in Section 73 of this Act, a civil penalty of one thousand dollars (\$1,000) for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of twenty-five thousand dollars (\$25,000), plus twenty-five percent (25%) of the amount or value of property that should have been but was not reported, paid, or delivered as a result of the evasion or failure to perform.*
- (2) *If a holder makes a fraudulent report under this chapter, the administrator may require the holder to pay to the administrator, in addition to interest under Section 73 of this Act, a civil penalty of one thousand dollars (\$1,000) for each day from the date the report was made until corrected, up to a cumulative maximum of twenty-five thousand dollars (\$25,000), plus twenty-five percent (25%) of the amount or value of any property that should have been reported but was not included in the report or was underreported.*

➔SECTION 75. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

The administrator:

- (1) *May waive, in whole or in part, interest under subsection (1) of Section 73 of this Act and penalties under subsection (2) of Section 73 of this Act or Section 74 of this Act; and*

- (2) *Shall waive a penalty under subsection (2) of Section 73 of this Act if the administrator determines that the holder acted in good faith and without negligence.*

➔SECTION 76. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *An apparent owner that contracts with another person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner which is held by the administrator may designate the person as the agent of the apparent owner. The designation shall be in a record signed by the apparent owner.*
- (2) *The administrator shall give the agent of the apparent owner all information concerning the property which the apparent owner is entitled to receive, including information that otherwise is confidential information under Section 78 of this Act.*
- (3) *If authorized by the apparent owner, the agent of the apparent owner may bring an action against the administrator on behalf of and in the name of the apparent owner.*

➔SECTION 77. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *As used in Sections 77 to 83 of this Act, "personal information" means:*
- (a) *Information that identifies or reasonably can be used to identify an individual, such as first and last name in combination with the individual's:*
1. *Social Security number or other government-issued number or identifier;*
 2. *Date of birth;*
 3. *Home or physical address;*
 4. *Electronic-mail address or other online contact information or Internet provider address;*
 5. *Financial account number or credit or debit card number;*
 6. *Biometric data, health or medical data, or insurance information; or*
 7. *Passwords or other credentials that permit access to an online or other account;*
- (b) *Personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and*
- (c) *Any combination of data that, if accessed, disclosed, modified, or destroyed without authorization of the owner of the data or if lost or misused, would require notice or reporting under KRS 365.720 to 365.730 and federal privacy and data security law, whether or not the administrator or the administrator's agent is subject to the law.*
- (2) *Any provision of Sections 77 to 83 of this Act that applies to the administrator or the administrator's records applies to an administrator's agent or the agent's records.*

➔SECTION 78. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in this chapter, the following are confidential and exempt from public inspection or disclosure:*
- (a) *Records of the administrator and the administrator's agent related to the administration of this chapter;*
- (b) *Reports and records of a holder in the possession of the administrator or the administrator's agent; and*
- (c) *Personal information and other information derived or otherwise obtained by or communicated to the administrator or the administrator's agent from an examination under this chapter of the records of a person.*
- (2) *A record or other information that is confidential under law of this state other than this chapter, another state, or the United States continues to be confidential when disclosed or delivered under this chapter to the administrator or administrator's agent.*

➔SECTION 79. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *When reasonably necessary to enforce or implement this chapter, the administrator may disclose confidential information concerning property held by the administrator or the administrator's agent only to:*
 - (a) *An apparent owner or the apparent owner's personal representative, attorney, other legal representative, relative, or agent designated under Section 76 of this Act to have the information;*
 - (b) *The personal representative, executor, other legal representative, relative of a deceased apparent owner, agent designated under Section 76 of this Act by the deceased apparent owner, or a person entitled to inherit from the deceased apparent owner;*
 - (c) *Another department or agency of this state or the United States;*
 - (d) *The person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the administrator of this state if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to Sections 77 to 83 of this Act; or*
 - (e) *A person subject to an examination as required by subsection (6) of Section 60 of this Act.*
- (2) *Except as otherwise provided in subsection (1) of Section 78 of this Act, the administrator shall include on the Web site or in the database required by subsection (2)(b) of Section 29 of this Act the name of each apparent owner of property held by the administrator. The administrator may include in published notices, printed publications, telecommunications, the Internet, or other media and on the Web site or in the database additional information concerning the apparent owner's property if the administrator believes the information will assist in identifying and returning property to the owner and does not disclose personal information except the home or physical address of an apparent owner.*
- (3) *The administrator and the administrator's agent shall not use confidential information provided to them or in their possession, except as expressly authorized by this chapter or required by law other than this chapter.*

➔SECTION 80. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

A person to be examined under Section 56 of this Act may require, as a condition of disclosure of the records of the person to be examined, that each person having access to the records disclosed in the examination execute and deliver to the person to be examined a confidentiality agreement that:

- (1) *Is in a form that is reasonably satisfactory to the administrator; and*
- (2) *Requires the person having access to the records to comply with the provisions of Sections 77 to 83 of this Act applicable to the person.*

➔SECTION 81. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in Sections 27 and 28 of this Act, a holder shall not be required under this chapter to include confidential information in a notice the holder is required to provide to an apparent owner under this chapter.

➔SECTION 82. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *If a holder is required to include confidential information in a report to the administrator, the information shall be provided by a secure means.*
- (2) *If confidential information in a record is provided to and maintained by the administrator or administrator's agent as required by this chapter, the administrator or agent shall:*
 - (a) *Implement administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the information as required by KRS 365.720 to 365.730 and federal privacy and data security law, whether or not the administrator or the administrator's agent is subject to the law;*
 - (b) *Protect against reasonably anticipated threats or hazards to the security, confidentiality, or integrity of the information; and*
 - (c) *Protect against unauthorized access to or use of the information which could result in substantial harm or inconvenience to a holder or the holder's customers, including insureds, annuitants, and policy or contract owners and their beneficiaries.*
- (3) *The administrator:*

- (a) *After notice and comment, shall adopt and implement a security plan that identifies and assesses reasonably foreseeable internal and external risks to confidential information in the administrator's possession and seeks to mitigate the risks; and*
- (b) *Shall ensure that an administrator's agent adopts and implements a similar plan with respect to confidential information in the agent's possession.*
- (4) *The administrator and the administrator's agent shall educate and train their employees regarding the plan adopted under subsection (3) of this section.*
- (5) *The administrator and the administrator's agent shall in a secure manner return or destroy all confidential information no longer reasonably needed under this chapter.*

➔SECTION 83. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *Except to the extent prohibited by law other than this chapter, the administrator or administrator's agent shall notify a holder as soon as practicable of:*
 - (a) *A suspected loss, misuse or unauthorized access, disclosure, modification, or destruction of confidential information obtained from the holder in the possession of the administrator or an administrator's agent; and*
 - (b) *Any interference with operations in any system hosting or housing confidential information which:*
 - 1. *Compromises the security, confidentiality, or integrity of the information; or*
 - 2. *Creates a substantial risk of identity fraud or theft.*
- (2) *Except as necessary to inform an insurer, attorney, investigator, or others as required by law, the administrator and an administrator's agent shall not disclose, without the express consent in a record of the holder, an event described in subsection (1) of this section to a person whose confidential information was supplied by the holder.*
- (3) *If an event described in subsection (1) of this section occurs, the administrator and the administrator's agent shall:*
 - (a) *Take action necessary for the holder to understand and minimize the effect of the event and determine its scope; and*
 - (b) *Cooperate with the holder with respect to:*
 - 1. *Any notification required by law concerning a data or other security breach; and*
 - 2. *A regulatory inquiry, litigation, or similar action.*

➔SECTION 84. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Revised Uniform Unclaimed Property Act.

➔SECTION 85. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

This chapter modifies, limits, or supersedes 15 U.S.C. secs. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. sec. 7003(b).

➔SECTION 86. A NEW SECTION OF KRS CHAPTER 393A IS CREATED TO READ AS FOLLOWS:

- (1) *An initial report filed under this chapter for property that was not required to be reported before the effective date of this Act, but that is required to be reported under this chapter, shall include all items of property that would have been presumed abandoned during the ten (10) year period preceding the effective date of this Act as if this chapter had been in effect during that period.*
- (2) *This chapter shall not relieve a holder of a duty that arose before the effective date of this Act to report, pay, or deliver property. Subject to subsections (2) and (3) Section 39 of this Act, a holder that did not comply with the law governing unclaimed property before the effective date of this Act shall be subject to applicable provisions for enforcement and penalties in effect before the effective date of this Act.*

➔Section 87. KRS 41.360 is amended to read as follows:

- (1) Where any officer or employee of the state government or of any agency of the state government has authorized the State Treasurer to deduct from his compensation as such officer or employee a sum or sums for

the purchase of United States Series E savings bonds, and thereafter, for any cause, has departed from such office or employment leaving unclaimed in the hands of the State Treasurer a sum arising from such deduction not equal to the amount for which such a bond may be purchased, the State Treasurer shall, within ninety (90) days after the date of the last deduction, mail to such officer or employee, at his last-known address as shown on the records of the Personnel Cabinet, a notice stating the sum held by the State Treasurer for such officer or employee, and requesting that he make claim for the same within six (6) months thereafter. A duplicate of such notice, addressed to the officer or employee, shall at the same time be delivered to the state agency of which the person was an officer or employee. If, at the expiration of six (6) months from the date of mailing the letter, the officer or employee has not made claim for the sum due him, the sum shall, as of July 1 following the expiration of such six-months' period, be presumed abandoned.

- (2) On or before September 1 of each year, the State Treasurer shall report to the Department of Revenue, in duplicate, a list of the sums presumed to be abandoned as of the preceding July 1, giving the name of the officer or employee and his last-known address. The *State Treasurer* ~~[Department of Revenue]~~ shall cause the report to be posted and published as provided in *Section 3 of this Act* ~~[KRS 393.110]~~. If, by November 15 following such posting and publication, the sums involved have not been claimed, the State Treasurer shall place the sums to the credit of the general fund in the State Treasury and shall report that fact to the Department of Revenue. Thereafter such sums shall have the same status as other property turned over to the Department of Revenue ~~[as provided in KRS 393.110]~~, and the rights of any person to make claim for the same shall rest upon the same principles as the rights of other claimants of property presumed to be abandoned under the provisions of KRS Chapter 393.

➔Section 88. KRS 164A.701 is amended to read as follows:

- (1) (a) There is hereby created an instrumentality of the Commonwealth to be known as the "Commonwealth postsecondary education prepaid tuition trust fund", to be governed by the board and administered by the Tuition Account Program Office. The fund shall be attached to the Kentucky Higher Education Assistance Authority for administrative and reporting purposes, and shall be governed, managed, and administered as a separate and distinct instrumentality of the Commonwealth under the provisions of KRS 164A.700 to 164A.709.
- (b) The fund shall consist of payments received from prepaid tuition contracts under KRS 164A.700 to 164A.709. Payments received relating to contracts in existence on April 25, 2006, and income earned from the investment of those payments shall be maintained separately from payments received relating to contracts entered into after April 25, 2006, and income earned from the investment of those payments. Income earned from the investment of payments to the fund shall remain in the fund and be credited to it.
- (c) Notwithstanding any other statute to the contrary, all moneys received under the authority of KRS 164A.700 to 164A.709 ~~[and 393.015]~~ shall be deemed to be trust funds to be held and applied solely for payment to qualified beneficiaries and purchasers and to meet the expenses necessary for the administration and maintenance of the fund as provided in KRS 164A.700 to 164A.709.
- (d) The fund shall not constitute an investment company as defined in KRS 291.010.
- (e) Obligations under a prepaid tuition contract incurred in accordance with the provisions of KRS 164A.700 to 164A.709 shall not be deemed to constitute a debt, liability, or obligation of the Kentucky Higher Education Assistance Authority, but shall be payable solely from the fund. Each prepaid tuition contract shall contain a statement that the obligation shall be payable solely from the fund.
- (2) The purposes of the fund are:
- (a) To provide affordable access to participating institutions for the qualified beneficiaries; and
- (b) To provide students and their parents economic protection against rising tuition costs.
- (3) The Tuition Account Program Office and the facilities of the Kentucky Higher Education Assistance Authority shall be used and employed in the administration of the fund including, but not limited to, the keeping of records, the employment of staff to assist in the administration of the fund, the management of accounts and other investments, the transfer of funds, and the safekeeping of securities evidencing investments.
- (4) (a) Assets of the fund shall be invested in any of the following security types that are deemed appropriate by the board:
1. Government and agency bonds;

2. Investment grade asset-backed securities and corporate bonds;
 3. Mortgages, excluding interest-only (IO), principal-only (PO), and inverse floaters; and
 4. Equities.
- (b) Equities shall constitute no greater than sixty percent (60%) of the entire portfolio, including up to ten percent (10%) in equities from outside the United States.
 - (c) The duration of the fixed-income portion of the portfolio shall reflect the future liability of the fund for tuition payments.
 - (d) Assets may be pooled for investment purposes with any other investment of the Commonwealth that is eligible for asset pooling.
 - (e) Leveraging is strictly prohibited.
- (5) The board may receive and deposit into the fund gifts made by any individual or agency as deemed acceptable by the board together with funds that are obtained from sources legally available and determined by the board to be applicable for the purposes of KRS 164A.700 to 164A.709.
 - (6) There is created a separate account within the Kentucky Higher Education Assistance Authority to be known as the prepaid postsecondary tuition administrative account for the purposes of implementing and maintaining the fund.
 - (a) Moneys shall be transferred from the fund to the administrative account to meet the expenses necessary for the administration and maintenance of the fund. Expenses incurred by the board and the Tuition Account Program Office in carrying out the provisions of KRS 164A.700 to 164A.709 shall be made payable from the fund through the administrative account, and no administrative expenses shall be incurred by the Kentucky Higher Education Assistance Authority beyond those for which moneys are provided by the fund.
 - (b) The board may establish administrative fees for handling prepaid tuition contracts and deposit the funds attributable to the fees in the administrative account.

➔Section 89. KRS 164A.707 is amended to read as follows:

- (1) Purchasers buying prepaid tuition for a qualified beneficiary shall enter into prepaid tuition contracts with the board. These contracts shall be in a form as shall be determined by the office. The contract shall provide for the purchase of a tuition plan for prepaid tuition for the qualified beneficiary from one (1) to five (5) specific academic years.
- (2) Upon written notification to the office a purchaser may amend the prepaid tuition contract to change:
 - (a) The qualified beneficiary, in accordance with 26 U.S.C. sec. 529;
 - (b) The projected college entrance year for which prepaid tuition is purchased. Beginning July 15, 2014, if the amendment extends the projected college entrance year, the utilization period shall begin with the initial projected college entrance year;
 - (c) A tuition plan designation to another tuition plan designation;
 - (d) The number of years for which prepaid tuition is purchased; or
 - (e) Other provisions of the prepaid tuition contract as permitted by the board.
- (3) A prepaid tuition account shall not be subject to attachment, levy, or execution by any creditor of a purchaser or qualified beneficiary. Prepaid tuition accounts shall be exempt from all state and local taxes including, but not limited to, intangible personal property tax levied under KRS 132.020, individual income tax levied under KRS 141.020, and the inheritance tax levied under KRS Chapter 140. Payments from a prepaid tuition account used to pay qualified postsecondary education expenses, or disbursed due to the death or disability of the beneficiary, or receipt of a scholarship by the beneficiary shall be exempt from tax liabilities.
- (4) Nothing in KRS 164A.700 to 164A.709 or in a prepaid tuition contract shall be construed as a promise or guarantee that a qualified beneficiary shall be admitted to an eligible educational institution, be allowed to continue to attend an eligible educational institution after having been admitted, or be graduated from an eligible educational institution.

- (5) Prepaid tuition contract payments shall not be made in real or personal property other than cash and shall not exceed the prepaid tuition. Prepaid tuition contract payments may be made in a lump sum or installments.
- (6) The purchaser shall designate the qualified beneficiary at the time the purchaser enters into a prepaid tuition contract, except for a prepaid tuition contract purchased in accordance with KRS 164A.700(13)(d). In the case of gifts made to the fund, the board shall designate a qualified beneficiary at the time of the gift.
- (7) The prepaid tuition contract shall provide that the purchaser and the qualified beneficiary shall not directly or indirectly or otherwise control the investment of the prepaid tuition account or earnings on the account. Payments made for prepaid tuition shall be accounted for separately for each qualified beneficiary. No interest or earnings on a prepaid tuition contract of the purchaser or qualified beneficiary shall be pledged or otherwise encumbered as security of a debt.
- (8) A prepaid tuition contract does not constitute a security as defined in KRS 292.310 or an annuity as defined in KRS 304.5-030.
- (9) Each prepaid tuition contract is subject to, and shall incorporate by reference, all operating procedures and policies adopted by the board, the statutes governing prepaid tuition contracts in KRS 164A.700 to 164A.709{ and ~~393.015~~}, and administrative regulations promulgated thereunder. Any amendments to statutes, administrative regulations, and operating procedures and policies shall automatically amend prepaid tuition contracts, with retroactive or prospective effect, as applicable.

➔Section 90. KRS 304.15-420 is amended to read as follows:

- (1) The General Assembly declares the purpose of this section shall be to require recognition of the escheat statute, as found in **Section 13 of this Act**~~[KRS 393.062]~~, and to require complete and proper disclosure, transparency, and accountability relating to any method of payment for annuity, retained asset, or life insurance death benefits regulated by the Department of Insurance.
- (2) As used in this section:
 - (a) "Contract" means an annuity contract. The term "contract" shall not include an annuity used to fund an employment-based retirement plan or program where the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants;
 - (b) "Death Master File" means the United States Social Security Administration's Death Master File or any other database or service that is at least as comprehensive as the United States Social Security Administration's Death Master File for determining that a person has reportedly died;
 - (c) "Death Master File match" means a search of the Death Master File that results in a match of the Social Security number or the name and date of birth of an insured, annuitant, or retained asset account holder; and
 - (d) "Policy" means any policy or certificate of life insurance that provides a death benefit. The term "policy" shall not include:
 - 1. Any policy or certificate of life insurance that provides a death benefit under:
 - a. An employee benefit plan, subject to the Employee Retirement Income Security Act of 1974, as defined by 29 U.S.C. sec. 1002(3);
 - b. A governmental plan as defined by 29 U.S.C. sec. 1002(32);
 - c. A church plan as defined by 29 U.S.C. sec. 1002(33); or
 - d. Any federal employee benefit program;
 - 2. Any policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement as defined in KRS 304.12-240(1)(a); or
 - 3. Any policies or certificates of insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction, or any group policy issued to a creditor to insure the lives of the creditor's debtors and any certificates issued under such policies.

All other terms used in this section shall be interpreted in a manner consistent with the definitions used in KRS Chapter 304.

- (3) (a) An insurer shall perform a comparison of its insureds' in-force life insurance policies, contracts, and retained asset accounts against a Death Master File, on at least a semiannual basis, to identify potential

matches of its insureds. An insurer may comply with the requirements of this section by using the entire Death Master File once, and for all comparisons thereafter, an insurer may utilize the Death Master File updates.

- (b) For those potential matches identified as a result of a Death Master File match, the insurer shall within ninety (90) days of a Death Master File match:
 - 1. Complete a good-faith effort, which shall be documented by the insurer, to confirm the death of the insured, annuitant, or retained asset account holder against other available records and information; and
 - 2. Determine whether benefits are due in accordance with the applicable policy or contract and, if benefits are due in accordance with the applicable policy or contract:
 - a. Use good-faith efforts, which shall be documented by the insurer, to locate the beneficiary or beneficiaries; and
 - b. Provide the appropriate claims forms or instructions to each beneficiary to make a claim, including the need to provide an official death certificate if applicable under the policy, contract, or retained asset account.
- (c) With respect to group life insurance, insurers are required only to confirm the possible death of an insured when the insurers provide full recordkeeping services to the group policy holder.
- (d) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.
- (4) An insurer shall not charge insureds, account holders, or beneficiaries for any fees or costs associated with a search or verification conducted pursuant to this section.
- (5) The benefits from a life insurance policy, contract, or a retained asset account, plus any applicable accrued interest, shall first be payable to the designated beneficiaries or owners and, in the event those beneficiaries or owners cannot be found, shall escheat to the state as unclaimed property pursuant to *Section 13 of this Act* ~~[KRS 393.062]~~.
- (6) An insurer shall notify the State Treasurer upon the expiration of the statutory time period for escheat that:
 - (a) A life insurance policy or contract beneficiary or retained asset account holder has not submitted a claim with the insurer; and
 - (b) The insurer has complied with subsection (3) of this section and has been unable, after good-faith efforts documented by the insurer, to contact the retained asset account holder or any beneficiary.
- (7) Upon such notice, an insurer shall submit, on its next unclaimed property report due to the State Treasurer, the unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the State Treasurer.
- (8) Failure to meet any requirement of this section with such frequency as to constitute a general business practice shall constitute a violation of Subtitle 12 of KRS Chapter 304.
- (9) Nothing in this section shall be construed to create or imply a private cause of action for a violation of this section. An insurer that is making a good-faith effort to comply with this section shall not be subject to any fees, fines, penalties, or interest for failure to perform a comparison of its in-force life insurance policies, contracts, and retained asset accounts prior to July 15, 2014.
- (10) The commissioner shall have exclusive authority and jurisdiction in his or her reasonable discretion based upon a demonstration of hardship to the insurer to issue an order allowing an insurer to phase in compliance with this section for a time period not to exceed one (1) year, according to a plan and timeline approved by the commissioner.
- (11) This section shall be known as the Unclaimed Life Insurance Benefits Act.

➔Section 91. KRS 393.170 is amended to read as follows:

Whenever any property escheated under this chapter by reason of actual abandonment, or death or presumption of death of the owner without leaving any person entitled to take the legal or equitable title under the laws of this state relating to wills, or descent and distribution, has been deposited with, or in the custody or under the control of, any

federal court in and for any district in this state, or in the custody of any depository, clerk or other officer of such court, or has been surrendered by such court or its officers to the United States Treasury, the Circuit Court of any county in which such federal court sits shall have jurisdiction to ascertain whether an escheat has occurred, and to enter a judgment of escheat in favor of the state. This section does not authorize a judgment to require such courts, officers, agents or depositories to pay or surrender funds to this state on a presumption of abandonment as provided in *Sections 4 to 14 of this Act* ~~[KRS 393.060 to 393.110].~~

➔Section 92. KRS 393.250 is amended to read as follows:

~~{(1) —}~~Any necessary expense required to be paid by the state in administering and enforcing this chapter shall be paid out of the abandoned property fund.

~~{(2) — The county attorney shall act as agent of the department for the collection of all judgments recovered in actions prosecuted by him under this chapter. He shall promptly remit the judgment recovered to the department with the information relating thereto as the department requires.}~~

➔Section 93. The following KRS sections are repealed:

393.010 Definitions for chapter -- Application of chapter.

393.060 Presumption of abandonment of certain property held by bank or financial organization.

393.062 Presumption of abandonment of unclaimed funds held by life insurance corporation.

393.064 Presumption of abandonment of stock or dividend of business association.

393.066 Presumption of abandonment of intangible personal property held by fiduciary.

393.072 Presumption of abandonment of property from demutualization of insurance company.

393.090 Presumption of abandonment of intangible personal property not otherwise covered.

393.092 Effect of property owner's residence in another state.

393.095 Unclaimed pari-mutuel tickets from quarter horse or Appaloosa racetracks.

393.100 Property paid into court -- When presumed abandoned -- Reversion to municipality or consolidated local government which procured payment into court.

393.110 Administrative regulations for reports by holders of abandoned property to report to department -- Posting and publication of notices.

393.115 Advertising expenses.

393.120 Sale of property required to be liquidated to pay department.

393.125 Sale by department.

393.130 Rights and duties of persons who have transferred property to department.

393.140 Claim of interest in property surrendered to state.

393.150 State Treasurer to determine claims.

393.160 Appeals from decision of State Treasurer.

393.180 Proceedings instituted by county attorney on relation of State Treasurer.

393.190 Assistant Attorney General to aid county attorney.

393.210 Property in two or more counties.

393.220 Disposition of tangible property during proceeding.

393.230 Proceeding to force payment or surrender of intangible property -- To establish actual abandonment.

393.240 Actions may be joined -- Procedure for action.

393.260 Limitation of state's action.

393.270 Person under disability, extension.

393.280 Examination of records -- Promulgation of administrative regulations and rules -- Delegation of State Treasurer's authority.

393.290 Civil action to enforce production of reports or the surrender of property.

393.990 Penalties.

➔Section 94. The Treasurer shall submit a report to the Legislative Research Commission by December 15, 2018, regarding the status of the abandoned property fund.

Signed by Governor April 13, 2018.

CHAPTER 164

(HB 400)

AN ACT relating to direct shipment of alcoholic beverages and declaring an emergency.

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

➔Section 1. KRS 243.0305 is amended to read as follows:

- (1) Any licensed Kentucky distiller that is located in wet territory or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under KRS 242.1243 and that has a gift shop or other retail outlet on its premises may conduct the activities permitted under this section as a part of its distiller's license.
- (2) ***For purposes of all retail drink and package sales under this section***, a wholesaler registered to distribute the brands of any distiller ~~shall may~~ permit the distiller to deliver ~~its products~~~~a souvenir package~~ directly from the distillery proper to any portion of the distillery premises. However, ***for purposes of all retail drink and package sales by distillers under subsections (3), (8), and (9) of this section*** all direct shipments shall be invoiced from the distiller to the wholesaler and from the wholesaler to the distiller, and all products directly shipped shall be included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.895 and 243.990.
- (3) A distiller may sell souvenir packages at retail ~~to~~:
 - (a) ***To*** distillery visitors of legal drinking age, in quantities not to exceed an aggregate of four and one-half (4-1/2) liters per ~~purchaser~~~~visitor~~ per day ***for sales prior to January 1, 2021, and in quantities not to exceed an aggregate of nine (9) liters per purchaser per day on and after January 1, 2021. At the purchaser's request, an order may be delivered or shipped directly to the purchaser. All deliveries or shipments shall be made through a licensed common carrier authorized to deliver or ship distilled spirits in the jurisdiction to which the products will be delivered or shipped; and***
 - (b) ***Pursuant to subscription or distillery-sponsored club programs, in quantities not to exceed an aggregate of nine (9) liters per calendar year, provided that the enrollment and payment for the subscription or club is arranged in person at the distillery. At the member's request, an order may be delivered or shipped directly to the member. All deliveries or shipments shall be made through a licensed common carrier authorized to deliver or ship distilled spirits in the jurisdiction to which the products will be delivered or shipped.***
- (4) Hours of sale for souvenir packages at retail shall be in conformity with KRS 244.290(3).
- (5) Except as provided in this section, souvenir package sales shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.
- (6) No wholesaler may restrict the sale of souvenir packages to the distiller of origin exclusively, but shall make souvenir packages available to any Kentucky retail licensee licensed for the sale of distilled spirits by the package.
- (7) Notwithstanding any provision of KRS 244.050 to the contrary, a distillery holding a sampling license may allow visitors to sample distilled spirits under the following conditions:
 - (a) Sampling shall be permitted only on the licensed premises during regular business hours;
 - (b) A distillery shall not charge for the samples; and

- (c) A distillery shall not provide more than one and three-fourths (1-3/4) ounces of samples per visitor per day.
- (8) ***Notwithstanding the provisions of KRS 243.110***, in accordance with this section, a distillery located in wet territory or in any territory that has authorized the limited sale of alcoholic beverages under an election held pursuant to KRS 242.1243 may:
- (a) Hold an NQ2 retail drink license for the sale of alcoholic beverages on the distillery premises~~;~~ ~~Notwithstanding KRS 243.110, a licensed distiller may also hold any of the retail licenses available to it under this section~~; ***and***
 - (b) ~~{Sell alcoholic beverages produced or bottled on the premises of its Kentucky licensed distillery for on-premises purposes without having to transfer physical possession of those alcoholic beverages to a licensed wholesaler if:~~
 - 1. ~~All direct shipments are invoiced from the distiller to its wholesaler and from the wholesaler to the distiller; and~~
 - 2. ~~All products directly shipped are included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.890 and 243.990; and~~
 - ~~(c) {Employ persons to engage in the sale or service of alcohol under an NQ2 license, if each employee completes the department's Server Training in Alcohol Regulations program within thirty (30) days of beginning employment.~~
- (9) A distiller may sell to consumers at fairs, festivals, and other similar types of events located in wet territory alcoholic beverages by the drink, containing spirits distilled or bottled on the premises of the distillery.
- (10) Except as expressly stated in this section, this section does not exempt the holder of a distiller's license from:
- (a) The provisions of KRS Chapters 241 to 244;
 - (b) The administrative regulations of the board; and
 - (c) Regulation by the board at all the distiller's licensed premises.
- (11) Nothing in this section shall be construed to vitiate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages.
- ➔Section 2. KRS 243.120 is amended to read as follows:
- (1) A distiller's, rectifier's, or winery license shall authorize the licensee to engage in the business of distiller, rectifier, or winery at the premises specifically designated in the license, to maintain aging warehouses, and to transport for himself or herself only any alcoholic beverage which he or she is authorized under the license to manufacture or sell. The licensee shall transport alcoholic beverages only by a vehicle operated by himself or herself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of the truck or vehicle holds a distributor's license.
 - (2)
 - (a) Distillers that produce more than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises shall obtain a distiller's license, Class A.
 - (b) Distillers that produce fifty thousand (50,000) gallons or less of distilled spirits per calendar year at the premises shall obtain a distiller's license, Class B (craft distillery).
 - (3)
 - (a) Rectifiers that rectify more than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises shall obtain a rectifier's license, Class A.
 - (b) Rectifiers that rectify fifty thousand (50,000) gallons or less of distilled spirits per calendar year at the premises shall obtain a rectifier's license, Class B (craft rectifier).
 - (4)
 - (a) A distiller that is located in wet territory, or in any precinct that has authorized the limited sale of alcoholic beverages at distilleries under KRS 242.1243, may sell distilled spirits by the drink ***or by the package*** at retail to consumers in accordance with KRS 243.0305.
 - (b) Any distilled spirits sold under this subsection shall be taxed and distributed in the same manner as ~~{souvenir package}~~ sales under KRS 243.0305(2).

- (c) Except as provided in this subsection, sales under this subsection shall be governed by all of the statutes and administrative regulations governing the retail sale of distilled spirits by the drink.

(5) ***Nothing in this section shall be construed to:***

- (a) ***Vitiate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages; or***
- (b) ***Allow delivery or shipment of alcohol into dry or moist territory.***

➔Section 3. KRS 243.130 is amended to read as follows:

- (1) Sales and deliveries of distilled spirits and wine may be made at wholesale, and from the licensed premises only:
 - (a) By distillers to rectifiers, wineries, holders of special nonbeverage alcohol licenses so far as they may make the purchases, or other distillers;
 - (b) By rectifiers to wineries or to distillers if distilled spirits sold to distillers are packaged in retail containers;
 - (c) By wineries to rectifiers or other wineries, or to the holders of special nonbeverage alcohol licenses;
 - (d) By distillers, rectifiers, or wineries to wholesalers; or
 - (e) By distillers, rectifiers, or wineries for export out of the state.
- (2) No distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver any alcoholic beverages to any person who is not authorized by the law of the state of the person's residence, and of the United States government if located in the United States, to receive and possess those alcoholic beverages. ***Except as provided in Section 1 of this Act***, no distiller, rectifier, or winery shall sell or contract to sell, give away, or deliver any of its products to any retailer or consumer in Kentucky.
- (3) Employees of distillers, rectifiers, and wineries may sample the products produced by that manufacturer for purposes of education, quality control, and product development.
- (4) Distillers may purchase distilled spirits only from other licensed distillers in this state or in another state or province, but distillers may purchase from rectifiers licensed in Kentucky, distilled spirits which are packaged in retail containers.
- (5) Rectifiers may purchase distilled spirits and wine only from licensed distillers or wineries in Kentucky, or from nonresident distillers or wineries authorized by the law of the state of their residence and by the United States government, if the distillers or wineries are located in the United States, to make the sales.
- (6) Wineries may purchase distilled spirits or wine only from licensed distillers or wineries in Kentucky, or from nonresident distillers or wineries authorized by law of the state of their residence, and by the United States government if located in the United States, to make the sales.
- (7) Nothing shall prohibit the purchase or sale of warehouse receipts by any person, but this subsection does not authorize the owner of a warehouse receipt to accept delivery of any distilled spirits unless the owner is a person who is permitted by law to receive the distilled spirits.
- (8) ***Nothing in this section shall be construed to:***
 - (a) ***Vitiate the policy of this Commonwealth supporting an orderly three (3) tier system for the production and sale of alcoholic beverages; or***
 - (b) ***Allow delivery or shipment of alcohol into dry or moist territory.***

➔Section 4. KRS 243.155 is amended to read as follows:

- (1) Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation. The board shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.

- (2) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off-premises retail site shall be separately licensed:
- (a) Engage in the business of a winery under the terms and conditions of KRS 243.120 and 243.130. The manufacture of wine at the small farm winery shall not be less than two hundred fifty (250) gallons, and shall not exceed one hundred thousand (100,000) gallons, in one (1) year;
 - (b) Bottle wines produced by that small farm winery and other licensed small farm wineries;
 - (c) Enter into an agreement with another licensed small farm winery under which it crushes, processes, ferments, bottles, or any combination of these services, the grapes, fruits, or other agricultural products of the other small farm winery for a production year. The resulting wine shall be considered the product of the small farm winery that provides the fruit. The small farm winery providing the custom crushing services may exclude the wine produced under this paragraph from its annual production gallonage;
 - (d) If the licensed small farm winery or off-premises retail site premises is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under KRS 242.124:
 1. Serve complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day; and
 2. Sell by the drink for on-premises consumption or by the package wine produced by it or by another licensed small farm winery, at retail to consumers;
 - (e) Sell by the drink or by the package, at fairs, festivals, and other similar types of events, wine produced by it or by another licensed small farm winery, at retail to consumers if all sales occur in a wet territory;
 - (f) Sell and transport wine produced by it to licensed small farm winery off-premises retail sites, wholesale license holders, and small farm winery license holders;
 - (g) Consume on the premises wine produced by the small farm winery or a licensed small farm winery and purchased by the drink or by the package at the licensed premises, if the small farm winery is located in wet territory; and
 - (h) *Deliver or ship packages of wine at retail:*
 1. *To small farm winery visitors of legal drinking age, in quantities not to exceed four (4) cases per purchaser per day. A winery shall deliver or ship the packages to the purchaser through a licensed common carrier that is authorized to deliver or ship wine in the jurisdiction to which the products will be delivered or shipped; and*
 2. *Pursuant to subscription or small farm winery-sponsored club programs, in quantities not to exceed an aggregate of one (1) case per month per calendar year, provided that the enrollment and payment for the subscription or club is arranged in person at the small farm winery. At the member's request, an order may be delivered or shipped directly to the member. All deliveries or shipments shall be made through a licensed common carrier authorized to deliver or ship wine in the jurisdiction to which the products will be delivered or shipped*~~to a customer~~
~~wine produced by a small farm winery if:~~
 - ~~1. The wine is shipped by licensed common carrier; and~~
 - ~~2. The amount of wine shipped is limited to two (2) cases per customer per order.~~
- (3) If the requirements of KRS 242.1241 or 244.290(5) relating to Sunday sales on the licensed premises of a small farm winery are met, a small farm winery within that territory may sell alcoholic beverages on Sunday only in accordance with this section between the hours of 1 p.m. until the prevailing time for that locality.
- (4) A small farm winery license holder may also hold an NQ2 retail drink license or an NQ4 retail malt beverage drink license if:
- (a) The small farm winery is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under KRS 242.124; and
 - (b) The issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise designed to promote viticulture, enology, and tourism.

- (5) This section shall not exempt the holder of a small farm winery license from the provisions of KRS Chapters 241 to 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small farm winery, except as expressly stated in this section.
- (6) Nothing contained in this section shall exempt a licensed out-of-state winery from obeying the laws of its resident state.
- (7) Upon the approval of the department, a small farm winery license may be renewed after the licensee submits to the department the winery's federal basic permit and proof of its annual wine production.
- (8) An employee of a small farm winery may sample the products produced by that small farm winery for purposes of education, quality control, and product development.

➔Section 5. KRS 243.200 is amended to read as follows:

- (1) A transporter's license may be issued as a primary license to a motor carrier authorized to transact business in the Commonwealth by the Transportation Cabinet or the Federal Motor Carrier Safety Administration or to another person engaged in business as a common carrier. A person holding a transporter's license may transport alcoholic beverages to or from the licensed premises of any licensee under this chapter *to an individual consumer* if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, *deliver*, ship, or receive the alcoholic beverages.
- (2) *A transporter may deliver or ship directly to consumers over twenty-one (21) years of age in packages clearly marked "Alcoholic Beverages, adult signature (21 years of age or over) required," and must request adult-signature-only service from the carrier. Deliveries or shipments of alcoholic beverages shall only be made into areas of the state in which alcoholic beverages may be lawfully sold. When the shipper requests adult-signature-only service, it shall be a violation for a common carrier not to inspect government-issued identification for proof of age or to knowingly deliver or ship alcoholic beverages into areas of the state in which alcoholic beverages are not legally sold.*
- (3) *Except for a common carrier that has been assigned a USDOT number issued by the Federal Motor Carrier Safety Administration,* the holder of a transporter's license shall cause each truck or vehicle to display the name of the licensee and the state license numbers in a manner prescribed by an administrative regulation promulgated by the board.
- ~~(4)(3)~~ *Except for an application by a common carrier that has been assigned a USDOT number issued by the Federal Motor Carrier Safety Administration,* an application for a transporter's license shall include a statement that the applicant, if issued a license, shall allow any authorized investigators of the department to stop and examine the cargo of any truck or vehicle in which alcoholic beverages are being transported within the boundaries of the Commonwealth of Kentucky.
- ~~(5)(4)~~ Applicants for the transporter's license under this section, and their employees, shall be exempt from the residency requirements of KRS 243.100.
- ~~(6)(5)~~ A licensee may move, within the same county, alcoholic beverages from one (1) of the licensee's licensed premises to another without a transporter's license. A licensee may move alcoholic beverages from one (1) of the licensee's licensed premises located in one (1) county to a licensed premises located in another county, without a transporter's license, with prior written approval of the administrator for good cause shown. The licensee shall keep and maintain, in one (1) of its licensed premises, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed premises to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the Department of Revenue upon request.
- ~~(7)(6)~~ Distilled spirits and wine may be transported by any licensed retailer selling distilled spirits or wine, by the package or by the drink, from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the board. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

➔Section 6. KRS 243.240 is amended to read as follows:

- (I) A quota retail package license shall authorize the licensee to:
 - (a) Purchase, receive, possess, and sell distilled spirits and wine at retail in unbroken packages only, and only for consumption off the licensed premises~~[-]; and~~

(b) *Deliver or ship to the customer, at the customer's request, alcoholic beverages that are purchased:*

1. *From the licensed premises where eighty percent (80%) of the monthly gross sales receipts are sales to Kentucky residents, in quantities not to exceed four and one-half (4 1/2) liters of distilled spirits and four (4) cases of wine per purchaser per day for sales prior to January 1, 2021, and in quantities not to exceed an aggregate of nine (9) liters of distilled spirits and four (4) cases of wine per purchaser per day on and after January 1, 2021; and*
2. *By subscription members or club program members, in quantities not to exceed an aggregate of nine (9) liters per calendar year for distilled spirits, and an aggregate of one (1) case of wine per month per calendar year, provided that the enrollment and payment for the subscription or club is arranged in person at the premises.*

- (2) The licensee shall purchase distilled spirits and wine in retail packages only and only from licensed wholesalers.
- (3) *All deliveries or shipments made pursuant to this section shall be made through a licensed transporter or licensed common carrier authorized to deliver or ship distilled spirits in the jurisdiction to which the products will be delivered or shipped.*

➔Section 7. KRS 244.165 is amended to read as follows:

- (1) Except as provided in ~~subsections~~^{subsection} (2), (3), and (4) of this section, it shall be unlawful for any person in the business of selling alcoholic beverages in another state or country to **deliver or** ship or cause to be **delivered or** shipped any alcoholic beverage directly to any Kentucky resident who does not hold a valid wholesaler or distributor license issued by the Commonwealth of Kentucky.
- (2) A **winery or** small farm winery located in another state may **deliver or** ship wine to a customer in Kentucky if:
 - (a) The wine, **subscription, or club program membership**, is purchased by the customer in person at the winery **or small farm winery**;
 - (b) *The Kentucky purchaser is of legal age;*
 - (c) *The out of state winery or small farm winery is licensed in Kentucky;*
 - (d) *Either:*
 1. *No more than four (4) cases of wine are purchased per day per visit; or*
 2. *The wine is purchased pursuant to subscription, or winery-sponsored or small farm winery-sponsored club programs, in quantities not to exceed an aggregate of one (1) case of wine per month per calendar year; and*
 - (e) The wine is **delivered or** shipped *through a licensed transporter or licensed common carrier authorized to deliver or ship wine in the jurisdiction in which the delivery or shipment will occur*~~by licensed common carrier; and~~
 - ~~(e) The amount of wine shipped is limited to two (2) cases per customer per visit.~~
- (3) A distillery located in another state may deliver or ship distilled spirits directly to a customer in Kentucky if:
 - (a) *The distilled spirits, subscription, or club program membership, is purchased by the customer in person at the distillery;*
 - (b) *The Kentucky purchaser is of legal age;*
 - (c) *The distillery is licensed in Kentucky;*
 - (d) *Either:*
 1. *No more than four and one-half (4 1/2) liters of distilled spirits are purchased per day per visit for sales prior to January 1, 2021, and in quantities not to exceed an aggregate of nine (9) liters per purchaser per day for sales on and after January 1, 2021; or*
 2. *The distilled spirits are purchased pursuant to subscription or distillery-sponsored club programs, in quantities not to exceed an aggregate of nine (9) liters of distilled spirits per calendar year; and*

- (e) *The distilled spirits are delivered or shipped through a licensed transporter or licensed common carrier authorized to deliver or ship distilled spirits in the jurisdiction in which the delivery or shipment will occur.*
- (4) *A licensed transporter or common carrier making deliveries or shipments pursuant to this section shall deliver or ship directly to consumers over twenty-one (21) years of age in packages clearly marked "Alcoholic Beverages, adult signature (21 years of age or over) required," and must request adult-signature-only service from the carrier. Deliveries or shipments of alcoholic beverages shall only be made into areas of the state in which alcoholic beverages may be lawfully sold. When the shipper requests adult-signature-only service, it shall be a violation for a common carrier not to inspect government-issued identification for proof of age or to knowingly deliver or ship alcoholic beverages into areas of the state in which alcoholic beverages are not legally sold.*
- (5) *Nothing contained in this section shall exempt a licensed out-of-state alcoholic beverage producer from obeying the laws of its resident state.*
- (6) Any person who violates subsection (1) of this section shall, for the first offense, be mailed a certified letter by the department ordering that person to cease and desist any **deliveries or** shipments of alcoholic beverages to Kentucky residents, and for the second and each subsequent offense, be guilty of a Class D felony.

➔Section 8. KRS 244.240 is amended to read as follows:

- (1) No distiller, rectifier, winery, or wholesaler and no employee, servant, or agent of a distiller, rectifier, winery, or wholesaler shall:
 - (a) *Except as provided in Sections 1 and 4 of this Act*, be interested directly or indirectly in any way in any premises where distilled spirits or wine is sold at retail or in any business devoted wholly or partially to the sale of distilled spirits or wine at retail;
 - (b) Make or cause to be made any loan to any person engaged in the manufacture or sale of distilled spirits or wine at wholesale or retail;
 - (c) Make any gift or render any kind of service whatsoever, directly or indirectly, to any licensee that may tend to influence the licensee to purchase the product of the distiller, rectifier, winery, or wholesaler; or
 - (d) Enter into a contract with any retail licensee under which the licensee agrees to confine the licensee's sales to distilled spirits or wine manufactured or sold by one (1) or more distillers, rectifiers, wineries, or wholesalers. This type of contract shall be void.
- (2) Nothing in this section shall prohibit the giving of discounts in the usual course of business if the same discounts are offered to all licensees holding the same license type buying similar quantities.
- (3) A retailer shall not require or demand that a distiller, rectifier, winery, or wholesaler violate this section.

➔Section 9. KRS 242.250 is amended to read as follows:

- (1) No person, while representing either the buyer or seller, shall distribute, solicit, or receive contracts, proposals, or orders for the purchase or sale of any alcoholic beverages, or distribute any handbills or posters advertising them in dry territory.
- (2) Each act of distributing, soliciting, or receiving contracts, proposals, or orders as denounced in subsection (1), and each day in which advertising matter is distributed, shall constitute a separate offense.
- (3) This chapter shall not prevent any manufacturer of or wholesale dealer in alcoholic beverages, or any authorized agent of either from making contracts of barrel, case, or package lots in any dry or moist territory, if his or her distilleries, breweries, wineries, or warehouses are located in that territory and his or her products are to be shipped into territory, either within or without the state, where alcoholic beverages may lawfully be sold.
- (4) Subsections (1) and (2) of this section shall also apply to moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.
- (5) *No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of this section.*

- (6) ***Proof that the purchaser represented in writing that the delivery address is located in wet territory shall be an absolute defense to a violation of this section on behalf of a retailer, winery, small farm winery, or distillery in connection with the delivery or shipment of alcoholic beverages purchased at retail.***

➔Section 10. KRS 242.260 is amended to read as follows:

- (1) It shall be unlawful for any person ~~for public or private carrier~~ to bring into, transfer to another, deliver, or distribute in any dry or moist territory, except as provided in subsection (2) of this section, any alcoholic beverage, regardless of its name. Each package of such beverage so brought, transferred, or delivered in such territory shall constitute a separate offense. Nothing in this section shall be construed to prevent any distiller or manufacturer or any authorized agent of a distiller, manufacturer, or wholesale dealer from transporting or causing to be transported by a licensed carrier any alcoholic beverage to their distilleries, breweries, wineries, or warehouses where the sale of such beverage may be lawful, either in or out of the state.
- (2) Subsection (1) of this section shall also apply to any moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.
- (3) ***No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of this section.***
- (4) ***Proof that the purchaser represented in writing that the delivery address is located in wet territory shall be an absolute defense to a violation of this section on behalf of a retailer, winery, small farm winery or distillery in connection with the delivery or shipment of alcoholic beverages purchased at retail.***

➔Section 11. KRS 242.270 is amended to read as follows:

- (1) No person shall sell or deliver any alcoholic beverages that are to be paid for on delivery, in dry territory.
- (2) Such transactions shall be deemed sales at the place where the money is paid or the goods delivered.
- (3) This section shall also apply to the sale or delivery of any alcoholic beverages that are to be paid for on delivery in moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.
- (4) ***No properly licensed common carrier or any of its employees acting on behalf of a consignor shall be liable for a violation of this section.***
- (5) ***Proof that the purchaser represented in writing that the delivery address is located in wet territory shall be an absolute defense to a violation of this section on behalf of a retailer, winery, small farm winery or distillery in connection with the delivery or shipment of alcoholic beverages purchased at retail.***

➔Section 12. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 13. Nothing in this Act shall be construed as altering or affecting the rights or privileges of any licensee under KRS Chapter 243 not expressly mentioned herein.

➔Section 14. Whereas issues exist in statutes regarding the ability to deliver alcoholic beverages to consumers, and those issues are a hindrance to commerce, and consumers may find themselves subject to needless prosecution if these are not corrected immediately, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 13, 2018.

CHAPTER 165

(HB 497)

AN ACT relating to physician assistants.

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

➔Section 1. KRS 202A.011 is amended to read as follows:

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

- (1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;
- (2) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;
- (3) "Cabinet" means the Kentucky Cabinet for Health and Family Services;
- (4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;
- (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill persons or individuals with an intellectual disability, who have been charged with or convicted of a felony;
- (6) "Hospital" means:
 - (a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health and Family Services as equipped to provide full-time residential care and treatment for mentally ill persons or individuals with an intellectual disability;
 - (b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill persons or individuals with an intellectual disability;
- (7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;
- (8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;
- (9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;
- (10) "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;
- (11) "Petitioner" means a person who institutes a proceeding under this chapter;
- (12) "Qualified mental health professional" means:
 - (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability;

- (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability;
- (f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health and individuals with an intellectual disability;~~[-or]~~
- (g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health and individuals with an intellectual disability; **or**
- (h) ***A physician assistant licensed under KRS 311.840 to 311.862, who meets one (1) of the following requirements:***
 - 1. ***Provides documentation that he or she has completed a psychiatric residency program for physician assistants;***
 - 2. ***Has completed at least one thousand (1,000) hours of clinical experience under a supervising physician, as defined by KRS 311.840, who is a psychiatrist and is certified or eligible for certification by the American Board of Psychiatry and Neurology, Inc.;***
 - 3. ***Holds a master's degree from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor agencies, is practicing under a supervising physician as defined by KRS 311.840, and:***
 - a. ***Has two (2) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or***
 - b. ***Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least two (2) years; or***
 - 4. ***Holds a bachelor's degree, possesses a current physician assistant certificate issued by the board prior to July 15, 2002, is practicing under a supervising physician as defined by KRS 311.840, and:***
 - a. ***Has three (3) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or***
 - b. ***Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least three (3) years;***

- (13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;
- (14) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill person or an individual with an intellectual disability;
- (15) "Secretary" means the secretary of the Cabinet for Health and Family Services.

➔Section 2. KRS 600.020 is amended to read as follows:

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

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when:

- (a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child:
 - 1. Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
 - 2. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
 - 3. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;
 - 4. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
 - 5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
 - 6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
 - 7. Abandons or exploits the child;
 - 8. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;
 - 9. Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months; or
 - (b) A person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age;
- (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec. 675(11);
 - (3) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:
 - (a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;
 - (b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;
 - (c) The parent has sexually abused the child and has refused available treatment;
 - (d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or
 - (e) The parent has caused the child serious physical injury;
 - (4) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;
 - (5) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;

- (6) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;
- (7) "Cabinet" means the Cabinet for Health and Family Services;
- (8) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
- (9) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;
- (10) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;
- (11) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;
- (12) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;
- (13) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless otherwise provided by law;
- (14) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;
- (15) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;
- (16) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;
- (17) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
- (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- (19) "Department" means the Department for Community Based Services;
- (20) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;
- (21) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted or closely supervised environment for his or her own or the community's protection;
- (22) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;
- (23) "Diversion agreement" means a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services to serve the best interest of the child and to provide redress for that behavior without court action and without the creation of a formal court record;
- (24) "Eligible youth" means a person who:
 - (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
 - (b) Is eighteen (18) years of age to nineteen (19) years of age; and

- (c) Is requesting to extend or reinstate his or her commitment to the cabinet in order to participate in state or federal educational programs or to establish independent living arrangements;
- (25) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- (26) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his or her age, development, culture, and environment as testified to by a qualified mental health professional;
- (27) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;
- (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child;
- (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- (30) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;
- (31) "Graduated sanction" means any of a continuum of accountability measures, programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:
 - (a) Electronic monitoring;
 - (b) Drug and alcohol screening, testing, or monitoring;
 - (c) Day or evening reporting centers;
 - (d) Reporting requirements;
 - (e) Community service; and
 - (f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;
- (32) "Habitual runaway" means any child who has been found by the court to have been absent from his or her place of lawful residence without the permission of his or her custodian for at least three (3) days during a one (1) year period;
- (33) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;
- (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;
- (35) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- (36) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;
- (37) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence to allow for appropriate family engagement;
- (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- (40) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;

- (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who has not been otherwise charged with a status or public offense;
- (43) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;
- (45) "Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, fictive kin home, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;
- (46) "Parent" means the biological or adoptive mother or father of a child;
- (47) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- (48) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- (49) "Physical injury" means substantial physical pain or any impairment of physical condition;
- (50) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;
- (51) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;
- (52) "Qualified mental health professional" means:
 - (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
 - (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

- (f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;~~[-or]~~
- (g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center; *or*
- (h) *A physician assistant licensed under KRS 311.840 to 311.862, who meets one (1) of the following requirements:*
 - 1. *Provides documentation that he or she has completed a psychiatric residency program for physician assistants;*
 - 2. *Has completed at least one thousand (1,000) hours of clinical experience under a supervising physician, as defined by KRS 311.840, who is a psychiatrist and is certified or eligible for certification by the American Board of Psychiatry and Neurology, Inc.;*
 - 3. *Holds a master's degree from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor agencies, is practicing under a supervising physician as defined by KRS 311.840, and:*
 - a. *Has two (2) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or*
 - b. *Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least two (2) years; or*
 - 4. *Holds a bachelor's degree, possesses a current physician assistant certificate issued by the board prior to July 15, 2002, is practicing under a supervising physician as defined by KRS 311.840, and:*
 - a. *Has three (3) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or*
 - b. *Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least three (3) years;*
- (53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);
- (54) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;
- (55) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;
- (56) "Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal misconduct;
- (57) "School personnel" means those certified persons under the supervision of the local public or private education agency;
- (58) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (59) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;

- (60) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;
- (61) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions in which the parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of the child or responsibility for his or her welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;
- (62) "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;
- (63) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;
- (64) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;
- (65) (a) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall include:
 - 1. Beyond the control of school or beyond the control of parents;
 - 2. Habitual Runaway;
 - 3. Habitual truant;
 - 4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
 - 5. Alcohol offenses as provided in KRS 244.085.(b) Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew;
- (66) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;
- (67) "Transitional living support" means all benefits to which an eligible youth is entitled upon being granted extended or reinstated commitment to the cabinet by the court;
- (68) "Transition plan" means a plan that is personalized at the direction of the youth that:
 - (a) Includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services; and
 - (b) Is as detailed as the youth may elect;
- (69) "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:
 - (a) Who was brought before the court and made subject to the order;
 - (b) Whose future conduct was regulated by the order;
 - (c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and
 - (d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States;

- (70) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;
- (71) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and
- (72) *"Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.*

Signed by Governor April 13, 2018.

CHAPTER 166

(HJR 196)

A JOINT RESOLUTION designating honorary names for various roads and bridges and directing the placement of honorary roadside signs.

WHEREAS, William Bays was born October 17, 1987, in Barstow, California, the only son of Timothy and April Briggs Bays; and

WHEREAS, a true American patriot who loved his country with great passion, William Bays volunteered to serve in the United States Army in 2009 and attained the rank of Sergeant, serving as a squad leader with D Company, 1st Battalion, 187th Infantry Regiment, 3rd Brigade Combat Team of the 101st Airborne; and

WHEREAS, Sergeant William Bays was a loving and dedicated husband and father and was a member of Life Point Church who enjoyed camping, traveling, and working on cars, especially his Jeep; and

WHEREAS, on June 10, 2017, Sergeant William Bays and two of his fellow soldiers from the Army's 101st Airborne Division, Sergeant Eric Houck and Corporal Dillon Baldrige, were killed by fire from a Taliban member who had infiltrated an Afghan army unit; and

WHEREAS, the three fallen soldiers were remembered by Major General Andrew Poppas, Commanding General of the 101st Airborne Division and Fort Campbell, who said, "Today, as we grieve, our thoughts and prayers are with the families of Corporal Baldrige, Sergeant Houck, and Sergeant Bays. We take this as a family loss. In the days ahead, the 101st Soldiers and the Rakkasans will continue the fight against terrorism with unbridled determination. Our Soldiers are battle-hardened and committed to the defense of our nation and the freedoms for which we fight"; and

WHEREAS, Sergeant William Bays' awards and decorations included the Army Commendation Medal, Army Achievement Medal, Meritorious Unit Commendation, Army Good Conduct Medal, National Defense Service Medal, Afghanistan Campaign Medal, the Global War on Terrorism Service Medal, Army NCO Professional Development Ribbon, Army Service Ribbon, Overseas Service Ribbon, the NATO Medal with one oak leaf cluster, the Air Assault Badge, and the Driver and Mechanic Badge; and

WHEREAS, Sergeant William Bays posthumously earned the Bronze Star Medal, Purple Heart, Combat Infantry Badge, and Army Commendation Medal with one oak leaf cluster; and

WHEREAS, other than his parents, Sergeant William Bays is survived by his wife, Jasmin Bays; daughters, Laura, Mia, and Julia; sisters, Brenda Griner and Lindsay Bays; paternal grandmother, Doris Bays; maternal grandparents, Marshall and Lorraine Briggs; and father-in-law and mother-in-law, Frank and Regina Draeger; and

WHEREAS, it is fitting and proper that this brave soldier, who paid the ultimate sacrifice in defense of his country, be recognized in some tangible way, no matter how inadequate that recognition might be; and

WHEREAS, from time to time, the General Assembly has seen fit to honor various Kentuckians by naming portions of state highways and erecting commemorative roadway signs in their honor; and

WHEREAS, these Kentuckians have come from all walks of life, held a multitude of jobs, and had a variety of accomplishments that made them deserving of the honor; and

WHEREAS, these individuals have included former Governors, former members of the General Assembly, decorated veterans, slain law enforcement officers, local elected officials, astronauts, doctors, educators, distinguished athletes, and civic leaders; and

WHEREAS, every citizen of the Commonwealth owes a great debt of gratitude to the patriotic men and women killed and wounded in service to their country in times of great need; and

WHEREAS, the General Assembly has often honored the veterans of this state by naming portions of several roads, from interstates to small two-lane country roads, in their honor; and

WHEREAS, the General Assembly again sees fit to honor a group of individuals who have made the lives of their fellow Kentuckians better and brought honor and respect to the Commonwealth;

NOW, THEREFORE,

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

➔Section 1. The Transportation Cabinet shall designate the portion of United States Route 79 in Todd County, from the intersection with Kentucky Route 848, at mile point 3.973, to the intersection with Kentucky Route 102, at mile point 8.729, as the "Sergeant William M. Bays Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 2. The Transportation Cabinet shall designate Kentucky Route 1780 in Leslie County, from its intersection with Saylor Branch Road to its intersection with Salt Trace Branch Road, as "Cpl. Edward Caldwell Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 3. The Transportation Cabinet shall designate a portion of Kentucky Route 10, in Campbell County, at Alexandria, from Persimmon Grove Pike to Carthage Road, as the "Senior Master Sergeant Jeremy Nelson Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 4. The Transportation Cabinet shall designate the bridge on Kentucky Route 87 over Line Creek in Monroe County, Bridge Number 086B00046N, as the "Billy Murphy Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 5. The Transportation Cabinet is hereby directed to honor Molly Matney by erecting signs on Kentucky Route 314 in Metcalfe County, at mile point 3.241 and mile point 6.463, that read "Home of Molly Matney, 2017 Miss Kentucky." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 6. The Transportation Cabinet is hereby directed to designate the Bridge on Kentucky Highway 61 over Middle Creek at the LaRue/Hardin County line as the "Master Chief Petty Officer Carl Maxie Brashear Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting the designation.

➔Section 7. The Transportation Cabinet shall designate a portion of Kentucky Route 32 in Rowan County, from the intersection with United States Route 60 at mile point 8.439 to the intersection with Messer Road at mile point 11.207, as the "Jennifer B. Skaggs Memorial Highway", and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation. This designation shall supersede any previous honorary designations placed on this portion of highway.

➔Section 8. The Transportation Cabinet is hereby directed to honor Roby Mullins by erecting a sign on United States Route 150 at the Boyle County/Lincoln County line that reads "Home of Roby Mullins, 2017 NASP State Overall Archery Champion." The sign shall be erected within 30 days of the effective date of this Resolution, and shall remain in place for at least one year from the date of its placement.

➔Section 9. The Transportation Cabinet shall designate the bridge on Kentucky Route 274 over the Little River at mile point 3.118 in Trigg County as "Mershon's Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation. This designation shall supersede any previous honorary designations for this bridge.

➔Section 10. The Transportation Cabinet shall designate Kentucky Route 274 in Trigg County, from the intersection with United States Route 68X (mile point 0) to the intersection with Carl Gray Road and Goose Hollow Road (mile point 8.92), as the "John E. Woodruff Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 11. The Transportation Cabinet shall designate the portion of Kentucky Route 236 in Boone and Kenton Counties, from the intersection with Kentucky Route 3076 in Boone County (mile point 1.594) to the

intersection with Baker Street in Kenton County (mile point 2.007) as the "H. Gordon Martin Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 12. The Transportation Cabinet is hereby directed to designate Kentucky Route 100 in Allen County, from mile point 15.2 to mile point 15.4, as the "Jeffrey P. Anderson Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage.

➔Section 13. The Transportation Cabinet is hereby directed to honor Elaine "Bae Bae" Avaneil Smith by erecting a sign on United States Route 27 at the Lincoln County/Garrard County line that reads "Home Of Elaine 'Bae Bae' Avaneil Smith, 2017 Young Miss Kentucky, MKTA." The sign shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of its placement.

➔Section 14. The Transportation Cabinet is hereby directed to designate Kentucky Route 10 in Greenup County, from mile point 1.897 to mile point 3.554, as the "WWI Veteran Spencer T. Carter Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 15. The Transportation Cabinet shall designate the portion of Kentucky Route 204 in Whitley County, from mile marker 7 to mile marker 10, "Canadatown Road" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 16. The Transportation Cabinet shall designate United States Route 41A in Webster County, from the intersection with Kentucky Route 120 at mile point 1.194 to the intersection with Kentucky Route 132 at mile point 10.010 as the "Dr. Wayne C. Cole Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 17. The Transportation Cabinet shall designate bridge number 048B00103N on Kentucky Route 987 in Harlan County, at Smith Lake Beach, near mile marker 13, as the "Sgt. William 'Bill' Stevens Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 18. The Transportation Cabinet is directed to honor the Lynn Camp High School Cheer Team by placing honorary signs on United States Highway 25E, at the Knox County/Bell County line and the Knox County/Laurel County line that read, "Home of the Lynn Camp HS Cheer Team, 2018 All "A" State Champions." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 19. The Transportation Cabinet shall designate the bridge on United States Highway 31E in Nelson County, near its intersection with Whitesides Road, as the "Howard Cheek Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 20. The Transportation Cabinet shall designate the bridge on Kentucky Route 234 in Warren County, on Cemetery Road that spans Drake's Creek, as the "John M. Donoho (Infant) Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 21. The Transportation Cabinet is hereby directed to designate the bridge on Kentucky Route 1088, at the Perry County/Knott County line as the "George H. Gayheart Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 22. The Transportation Cabinet shall designate the portion of Kentucky Route 72, in Harlan County, from mile point 0 to mile point 2, as the "Staff Sergeant Bird Hensley Jr. Missing in Action Korean War Veteran Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage. This designation shall supersede any previous honorary designation of this section of highway.

➔Section 23. The Transportation Cabinet is hereby directed to honor Clarence "Soc" Clay by erecting signs at the city limits of South Shore, on United States Route 23, in Greenup County, that read "Home of Clarence 'Soc' Clay, 1984 Kentucky Poet Laureate." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 24. The Transportation Cabinet shall, upon the completion of necessary upgrades and final approval from the Federal Highway Administration to include the William H. Natcher Parkway as part of the interstate highway system, designate the road as the "William H. Natcher Expressway" and within 30 days of federal approval, erect appropriate signs.

➔Section 25. The Transportation Cabinet shall designate the bridge on Kentucky Route 30 in Magoffin County, just west of Mill Branch Road, as the "Paul W. Rowe Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 26. The Transportation Cabinet shall designate Kentucky Route 160, from the entrance to Benham to the bridge by the Benham Post Office, in Harlan County, as the "SP4 Bobby Lewis Manuel Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 27. The Transportation Cabinet shall designate the bridge on United States Route 421 in Harlan County, near the Grays Knob Bible Church, as the "WT1 James Thomas Allen Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 28. The Transportation Cabinet is hereby directed to honor Robert Boyd Holbrook by erecting signs on Kentucky Route 194, near Goebel Branch Road, in Floyd County, that read "Home of Boyd Holbrook." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

➔Section 29. The Transportation Cabinet shall designate the bridge on Kentucky Route 15 at Kentucky Route 451, in Perry County, as the "Veterans Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 30. The Transportation Cabinet is hereby directed to designate United States Highway 41 in Christian County, from its intersection with Interstate 169 to its intersection with United States Highway 68 Bypass, as the "Herb Covington Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 31. The Transportation Cabinet shall designate the bridge on Kentucky Route 66 in Bell County, near its intersection with Kentucky Route 2011, as the "Ted Rodney Collett Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 32. The Transportation Cabinet shall designate the bridge on Kentucky Route 159 in Pendleton County over Kincaid Creek, bridge number 096BN0045N, as the "William 'Bill' Ashcraft Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 33. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect honorary signs on Kentucky Route 17 at the intersections with United States Route 27 and Kentucky Route 1853 that read, "Home of Nate Jones, Major League Baseball Player, Chicago White Sox, 2012-Present." The signs erected under this section shall remain in place for at least one year.

➔Section 34. The Transportation Cabinet shall designate the bridge on United States Route 60 in Carter County over the Little Sandy River, bridge number 022B00063N, as the "Dr. H.E. Shufflebarger Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 35. The Transportation Cabinet shall designate the bridge on Kentucky Route 474 in Carter County over Smith Creek, bridge number 022B00168N, as the "Vernie and Mary Ellen Oakley Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 36. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, honor the accomplishments of Kelsie May by erecting an honorary sign on Kentucky Route 3 in Lawrence County, near the intersection with United States Route 23 at the city limits of Louisa, that reads "Home of Kelsie May, Country Music Singer." The sign erected under this section shall remain in place for at least one year.

➔Section 37. The Transportation Cabinet shall designate the bridge on Kentucky Route 1417 in Bullitt County over Knob Creek, bridge number 015B00100N, as the "James D. 'Boss' Shepherd Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 38. The Transportation Cabinet shall designate the bridge on Kentucky Route 90 in Wayne County over Otter Creek, bridge number 11600036N, as the "Hiram Bruce 'Bud' Grayer Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 39. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect honorary signs on United States Route 127 in Boyle County, at the city limits of Danville, that read "Home of D'mauriae Vancleave, 2017 Kentucky Mr. Football." The signs erected under this section shall remain in place for at least one year.

➔Section 40. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect honorary signs on United States Route 127 in Boyle County, at the Mercer and Lincoln County lines, that read "Home of Boyle County Rebels, 2017 KHSAA Class 3A Football Champions and Danville Admirals, 2017 KHSAA Class 2A Football Champions." The signs erected under this section shall remain in place for at least one year.

➔Section 41. The Transportation Cabinet is hereby directed to designate Kentucky Route 946 in Menifee County as the "Gary Collins Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 42. The Transportation Cabinet is hereby directed to designate Kentucky Route 746 in Menifee County as the "Sgt. Bill Ratliff Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 43. The Transportation Cabinet shall designate a portion of United States Route 60 in Rowan County, from the intersection with Kentucky Route 32 at mile point 9.683 to the intersection with Kentucky Route 799 at mile point 12.856, as the "Sgt. James J. Harlan Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation. This designation shall supersede any previous honorary designations placed on this portion of highway.

➔Section 44. The Transportation Cabinet shall honor the life and accomplishments of Charlie Justice by including him on the Country Music Highway on United States Route 23 in Pike County, and shall, within 30 days of the effective date of this Resolution, erect appropriate signs.

➔Section 45. The Transportation Cabinet shall designate the bridge on United States Route 60 over the Tennessee River, between McCracken and Livingston Counties, as the "George Rogers Clark Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 46. The Transportation Cabinet is hereby directed to designate Kentucky Route 2030 in Floyd County, from mile point 5.03 to mile point 7.80, as the "Corporal Elba Case WWII Purple Heart Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 47. The Transportation Cabinet shall designate Kentucky Route 29 in Jessamine County, from the United States 27 West Bypass in front of the Jessamine County Board of Education to the Southern Railroad Bridge, as the "Harlan H. Veal, Sr. Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 48. The Transportation Cabinet shall designate Kentucky Route 39 in Jessamine County, from its intersection with Chrisman Mill Road to its intersection with Elm Fork Road, as the "Nancy Stacy Breiner Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 49. The Transportation Cabinet shall designate Kentucky Route 777 in Floyd County as the "Harry Lee Moore Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 50. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect honorary signs at appropriate locations on Kentucky Route 1428 in Floyd County that read "James D. Adams Middle School Blackcats 8th Grade Boys' Basketball Team, 2017 Kentucky Basketball Academy State Champions." The signs erected under this section shall remain in place for a minimum of one year.

➔Section 51. The Transportation Cabinet shall designate the bridge on Kentucky Route 610 in Pike County, near Hall and Jones Funeral Home, Bridge Number 098-B00070N, as the "Hobart Clay Johnson Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 52. The Transportation Cabinet is hereby directed to designate the future United States Highway 460 eastbound twin bridge in Pike County as the "Harrell Caudill Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 53. The Transportation Cabinet is hereby directed to designate the bridge on Kentucky Route 3174 in Pike County, that spans Marrowbone Creek, as the "James Hamilton Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the proper signage.

➔Section 54. The Transportation Cabinet shall honor the life and accomplishments of Jack Adkins by including him on the Country Music Highway on United States Route 23 in Pike County, and shall, within 30 days of the effective date of this Resolution, erect appropriate signs.

➔Section 55. The Transportation Cabinet is hereby directed to designate Kentucky Route 3414 in Pike County as the "William Blaine Burke Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 56. The Transportation Cabinet shall designate Kentucky Route 20 in Boone County, from mile point 6 to mile point 7, as the "Sgt. Charles "Chalkie" Fleek Memorial Highway," and shall, within 30 days of the

effective date of this Resolution, erect appropriate signage. The signs shall denote that Sgt. Fleek was a Medal of Honor recipient.

➔Section 57. The Transportation Cabinet is hereby directed to designate the future United States Highway 460 westbound twin bridge in Pike County as the "Officer Scotty Hamilton Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 58. The Transportation Cabinet shall designate Kentucky Route 466 in Floyd County, at Melvin, from mile point 31.140 to mile point 34.191, as the "SPC Lowell Johnson Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

Became law without Governor's signature April 14, 2018.

CHAPTER 167

(HB 202)

AN ACT relating to road projects and declaring an emergency.

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

➔Section 1. The projects authorized by the General Assembly in this Act constitute the official 2018-2020 Biennial Highway Construction Plan.

➔Section 2. The General Assembly acknowledges that the project authorizations contained within this Act are based on the Transportation Cabinet's estimates. The Transportation Cabinet shall have the authority to expend funds necessary to complete the projects as authorized in this Act, amended only by variations dictated by bid or unforeseen circumstances.

➔Section 3. The Secretary of the Transportation Cabinet shall produce a single document that contains two separately identified sections, as follows: Section 1 shall detail the enacted fiscal biennium 2018-2020 Biennial Highway Construction Program and Section 2 shall detail the 2018-2020 Highway Preconstruction Program Plan for fiscal year 2018-2019 through fiscal year 2022-2024 as identified by the 2018 General Assembly. This document shall mirror in data type and format the fiscal year 2018-2024 Recommended Six-Year Road Plan as submitted to the 2018 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within 60 days of adjournment of the 2018 Regular Session of the General Assembly.

➔Section 4. The Secretary of the Transportation Cabinet shall report by September 30 of each fiscal year to the Interim Joint Committee on Transportation any project included in the enacted Biennial Highway Construction Plan which has been delayed beyond the fiscal year for which the project was authorized. The report shall include:

- (a) The county name;
- (b) The Transportation Cabinet project identification number;
- (c) The route where the project is located;
- (d) The length of the project;
- (e) A description of the project and the scope of improvement;
- (f) The type of local, state, or federal funds to be used on the project;
- (g) The stage of development for the design, right-of-way, utility, and construction phases;
- (h) The fiscal year in which each phase of the project was scheduled to commence;
- (i) The estimated cost for each phase of the project;
- (j) A detailed description of the circumstances leading to the delay; and
- (k) The same information required in paragraphs (a) to (i) of this section for the project or projects advanced with funds initially scheduled for the delayed project.

➔Section 5. This Act in conjunction with 2018 Regular Session HJR 74 shall constitute the Six-Year Road Plan.

➔Section 6. Whereas the funding for these projects is provided by 2018 Regular Session HB 201, which takes effect upon its passage and approval by the Governor or upon otherwise becoming law, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon otherwise becoming law.

➔Section 7. The 2018-2020 Biennial Highway Construction Plan is as follows:

Signed by Governor April 13, 2018.

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ADAIR	1068	KY-704	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 704 (11.909) OVER PETTY'S FORK. (001B00078N) (SD)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	490,000
ADAIR	80003	KY 55	CONGESTION MITIGTN(O)	KY 55 NEW TURNING LANE AT BETTY'S OK COUNTRY COOKING	PL DN RW UT CN	SPP			250,000
					Project Cost:		0	0	250,000
Total for ADAIR county					PL DN RW UT CN			175,000	250,000
					Total Amounts:		0	175,000	740,000
ALLEN	320	KY-100	RECONSTRUCTION(O)	IMPROVEMENTS TO KY 100: CURVE, BRIDGE, AND INTERSECTION IMPROVEMENTS FROM NEAR THE STONY POINT ROAD INTERSECTION TO EAST OF THE ALONZO LONG HOLLOW ROAD INTERSECTION (12CCR)	PL DN RW UT CN	SPP			1,880,000
					Project Cost:		0	0	1,880,000
ALLEN	8305	KY-100	RECONSTRUCTION(O)	IMPROVE KY-100 (OLD GALLATIN ROAD) FROM SOUTH OF KY-2160 TO KY-980. (06CCN)	PL DN RW UT CN	SPP	1,250,000		
					Project Cost:		1,250,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ALLEN	8901		ECONOMIC DEVEL(O)	IMPROVE ACCESS ROAD ON EACH END OF INDUSTRIAL ACCESS ROAD IN SCOTTSVILLE	PL				
					DN				
					RW				
					UT				
					CN	SPP			300,000
				Project Cost:			0	0	300,000
ALLEN	10000	KY-3499	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-3499 BRIDGE OVER BAYS FORK. (002B00004N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			525,000
				Project Cost:			0	175,000	525,000
ALLEN	10011	KY-585	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 585 BRIDGE OVER MIDDLE FORK DRAKES CREEK. (002B00021N)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			822,500
				Project Cost:			0	245,000	822,500
ALLEN	80004	US 231	AIR QUALITY(P)	CONSTRUCT A NEW TURN LANE ON US 231 AT JOHNSON ROAD TO IMPROVE ACCESS TO INDUSTRIAL PARK	PL				
					DN				
					RW				
					UT				
					CN	SPP			250,000
				Project Cost:			0	0	250,000
Total for ALLEN county					PL				
					DN			420,000	
					RW				1,880,000
					UT				
					CN		1,250,000		1,897,500
Total Amounts:							1,250,000	420,000	3,777,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ANDERSON	80001	US-62	SPOT IMPROVEMENTS(O)	IMPROVE US-62 (VERSAILLES RD.) FROM HILLTOP DR. TO WEST END OF BRIDGE OVER KENTUCKY RIVER AT TYRONE	PL DN RW UT CN	SPP			1,200,000
Project Cost:							0	0	1,200,000
Total for ANDERSON county					PL DN RW UT CN				1,200,000
Total Amounts:							0	0	1,200,000
BALLARD	115	US-60	MAJOR WIDENING(O)	PADUCAH-WICKLIFFE RD: IMPROVE US-60 FROM STAFFORD ROAD TO BETHEL CHURCH ROAD (INCLUDES KEVIL BYPASS)(TO BE LET WITH 1-115.10) (06CCR)(12CCR)(14CCR).	PL DN RW UT CN	NH			2,500,000
Project Cost:							0	0	2,500,000
BALLARD	1140.01	US-51	AM-BRIDGE (P)	PE AND ENVIRONMENTAL FOR REPLACEMENT OF CAIRO BRIDGE AT OR BESIDE EXISTING LOCATION. (004B00021N)(SD)	PL DN RW UT CN	BR			2,500,000
Project Cost:							0	0	2,500,000
BALLARD	20000	US-51	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM			275,000
Project Cost:							0	0	2,750,000
							0	0	3,025,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
Total for BALLARD county					PL				
					DN				2,775,000
					RW				2,500,000
					UT				
					CN				2,750,000
					Total Amounts:		0	0	8,025,000
BARREN	195	LN-9008	AM-BRG PAINTING(P)	LOUIE B NUNN PKWY (LN-9008) BRIDGE PAINTING, CLEANING, AND MINOR REPAIRS ON BRIDGE OVER I-65 IN BARREN CO. KY. 005B00067R, 005B00067L (2016BOP)	PL				
					DN				
					RW				
					UT				
					CN	NH	500,000		
					Project Cost:		500,000	0	0
BARREN	10001	US-31	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF US 31EX BRIDGE OVER WATER STREET. (005B00058N)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			945,000
					Project Cost:		0	245,000	945,000
BARREN	20000	I-65	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-065 BOTH DIRECTION(S) FROM MILEPOINT 42.89 TO MILEPOINT 43.307	PL				
					DN	PM		50,000	
					RW				
					UT				
					CN	PM		500,000	
					Project Cost:		0	550,000	0
BARREN	20003	LN-9008	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF LOUIE B. NUNN CUMBERLAND PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 16.117 TO MILEPOINT 20.1	PL				
					DN	PM		320,000	
					RW				
					UT				
					CN	PM		3,200,000	
					Project Cost:		0	3,520,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BARREN	80002	LN-9008	NEW INTERCHANGE(O)	NEW INTERCHANGE ON THE LOUIE NUNN CUMBERLAND PARKWAY AT KY-249 IN GLASGOW	PL DN RW UT CN	SPP			1,500,000
Project Cost:							0	0	1,500,000
Total for BARREN county					PL DN RW UT CN			615,000	1,500,000
Total Amounts:							500,000	3,700,000	945,000
							500,000	4,315,000	2,445,000
BATH	8813	US-60	SAFETY(P)	IMPROVE SAFETY AND EFFICIENCY AT THE KY-211 AND US-60 INTERSECTION IN SALT LICK. (14CCN)	PL DN RW UT CN	STP			1,000,000
Project Cost:							0	0	1,000,000
BATH	10000	KY-1106	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1106 BRIDGE OVER FLAT CREEK. (006B00069N)	PL DN RW UT CN	BR		595,000	
Project Cost:							0	595,000	2,258,000
BATH	10001	KY-1944	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1944 BRIDGE OVER WHITE OAK CREEK. (006B00076N)	PL DN RW UT CN	BR		473,000	
Project Cost:							0	473,000	1,015,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BATH	10017	KY-211	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 211 BRIDGE OVER COW CREEK. (006B00043N)	PL DN RW UT CN	BR		315,000	
					Project Cost:		0	315,000	717,500
BATH	20001	US-60	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM		410,000	
					Project Cost:		0	410,000	0
Total for BATH county					PL DN RW UT CN			1,793,000	
					Total Amounts:		0	1,793,000	4,990,500
BELL	10000	KY-2011	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-2011 BRIDGE OVER RED BIRD CREEK. (007B00071N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	441,000
BELL	10001	KY-2011	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-2011 BRIDGE OVER RED BIRD CREEK. (007B00072N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	791,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BELL	10002	CR-1041	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CR-1041 BRIDGE OVER YORK BRANCH. (007C00003N)	PL				
					DN	BR		193,000	
					RW				
					UT				
					CN	BR			595,000
				Project Cost:			0	193,000	595,000
BELL	10038	KY-92	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 92 BRIDGE OVER GREASY CREEK. (007B00040N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			490,000
				Project Cost:			0	175,000	490,000
BELL	20000	KY-2012	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT, SCHOOL BUS SAFETY ISSUE.	PL				
					DN	PM		61,000	
					RW				
					UT				
					CN	PM		610,000	
				Project Cost:			0	671,000	0
Total for BELL county					PL				
					DN			779,000	
					RW				
					UT				
					CN			610,000	2,317,000
				Total Amounts:			0	1,389,000	2,317,000
BOONE	14	I-75	I-CHANGE RECONST(O)	IMPROVE THE KY-536 (MT. ZION ROAD) INTERCHANGE. (14CCR)(16CCR)	PL				
					DN				
					RW				
					UT	NH	5,430,000		
					CN				
				Project Cost:			5,430,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOONE	14.5	I-75	MINOR WIDENING(O)	ADD AUXILIARY LANES ON I-71/75 FROM KY-536 TO US-42 (NB & SB) AS PER THE INTERCHANGE JUSTIFICATION STUDY (IJS). (10CCR)(12CCR)	PL DN RW UT CN	NH	1,060,000		
Project Cost:							1,060,000	0	0
BOONE	78	I-275	NEW INTERCHANGE(O)	IMPROVE FREIGHT MOBILITY AT I-275 AND GRAVES ROAD (CONTINUATION OF 6-8953: INTERCHANGE JUSTIFICATION STUDY ON I-275/GRAVES RD).	PL DN RW UT CN	NH NH NH NH		3,000,000	4,000,000 3,000,000 5,000,000
Project Cost:							0	3,000,000	12,000,000
BOONE	79	I-75	CONGESTION MITIGTN(O)	IMPROVE SAFETY, MOBILITY, OPERATIONS, AND GEOMETRICS AT THE JUNCTION OF I-75 AND I-275 AND THE SYSTEM-TO-SYSTEM RAMPS.	PL DN RW UT CN	NH		2,000,000	
Project Cost:							0	2,000,000	0
BOONE	351.45	US-25	MINOR WIDENING(O)	MINOR WIDENING AND CONSTRUCT A SOUTHBOUND LEFT TURN LANE ON US-25 (DRY RIDGE-FLORENCE ROAD) AT MUBEA.	PL DN RW UT CN	SPP		1,100,000	
Project Cost:							0	1,100,000	0
BOONE	367	US-42	SAFETY(P)	IMPROVE MOBILITY AT THE INTERSECTION OF KY-842 AND US-42. (12CCR)(16CCN)	PL DN RW UT CN	STP	2,500,000		
Project Cost:							2,500,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOONE	400.03	-0	MATCHED FED FUNDS(O)	NORTHERN KENTUCKY RIDESHARE PROGRAM. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK	414,000		
					Project Cost:		414,000	0	0
BOONE	400.14	-0	MATCHED FED FUNDS(O)	NORTHERN KENTUCKY RIDESHARE PROGRAM. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK		44,000	
					Project Cost:		0	44,000	0
BOONE	400.15	-0	MATCHED FED FUNDS(O)	NORTHERN KENTUCKY RIDESHARE PROGRAM. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK			44,000
					Project Cost:		0	0	44,000
BOONE	401.09	-0	MATCHED FED FUNDS(O)	OKI REGIONAL TRANSPORTATION PLANNING. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK	280,000		
					Project Cost:		280,000	0	0
BOONE	401.14	-0	MATCHED FED FUNDS(O)	OKI REGIONAL TRANSPORTATION PLANNING. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK		56,000	
					Project Cost:		0	56,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOONE	401.15	-0	MATCHED FED FUNDS(O)	OKI REGIONAL TRANSPORTATION PLANNING. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK			56,000
					Project Cost:		0	0	56,000
BOONE	401.18	-0	MATCHED FED FUNDS(O)	N KY PLANNING FY18 AIR QUALITY, FIAM, LAND USE, RIDESHARE. (2016BOP)	PL DN RW UT CN	SNK	150,000		
					Project Cost:		150,000	0	0
BOONE	401.19	-0	MATCHED FED FUNDS(O)	N KY PLANNING FY 2019 AIR QUALITY, FIAM, LAND USE, RIDESHARE. (2016BOP)	PL DN RW UT CN	SNK		150,000	
					Project Cost:		0	150,000	0
BOONE	401.2	-0	MATCHED FED FUNDS(O)	N KY PLANNING FY 2020 AIR QUALITY, FIAM, LAND USE, RIDESHARE.	PL DN RW UT CN	SNK			150,000
					Project Cost:		0	0	150,000
BOONE	415	KY-237	MATCHED FED FUNDS(O)	INCREASE THROUGH LANE CAPACITY ON KY 237 FROM I-275 RAMPS TO CARDINAL WAY AND IMPROVE WORLDWIDE BLVD WITH TWO-WAY LEFT TURN AND ADDITIONAL RIGHT TURN TO SB KY 237. (2012BOP)(ADM. BY KYTC)	PL DN RW UT CN	SNK	3,000,000		
					Project Cost:		3,000,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOONE	422	CR-1002	MATCHED FED FUNDS(O)	RECONSTRUCTION OF THE INTERSECTION OF CAMP ERNST ROAD AND LONGBRANCH ROAD. WIDENING OF 1,900 FEET OF LONGBRANCH ROAD. (2012BOP)	PL DN RW UT CN	SNK	524,640		
Project Cost:							524,640	0	0
BOONE	423	KY-3060	MATCHED FED FUNDS(O)	CORRECT GEOMETRIC DEFICIENCIES AND ADD LEFT TURN LANES ON FROGTOWN ROAD AT TRIPLE CROWN BLVD AND CEDARWOOD. (2012BOP)(ADM. BY KYTC)	PL DN RW UT CN	SNK SNK SNK	200,000 120,000 1,200,000		
Project Cost:							1,520,000	0	0
BOONE	433	KY-717	SAFETY(P)	IMPROVE SAFETY ALONG KY 717 AT THE 90 DEGREE BEND NEAR THE CIN/NKY AIRPORT, 0.337 MI N OF KY 1017. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP) (2014BOP)	PL DN RW UT CN	SNK SNK SNK	1,500,000 250,000 1,000,000		
Project Cost:							2,750,000	0	0
BOONE	439	KY-3159	MATCHED FED FUNDS(O)	WIDEN KY 3159 (TED BUSHELMAN BLVD) FROM DOERING DRIVE TO KY 1017 (AERO PARKWAY) TO PROVIDE A TWO-WAY LEFT TURN LANE TO IMPROVE TRAFFIC FLOW FOR FUTURE DEVELOPMENT (2016BOP)	PL DN RW UT CN	SNK	1,000,000		
Project Cost:							1,000,000	0	0
BOONE	440	KY-237	MATCHED FED FUNDS(O)	CONSTRUCT A MULTI-MODAL PATH ALONG KY 237 FROM STEPHENS ELEMENTARY SCHOOL NORTH TO KY 20/PETERSBURG ROAD (2016BOP).	PL DN RW UT CN	SNK	1,786,400		
Project Cost:							1,786,400	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOONE	441	KY-3076	BIKE/PED FACIL(O)	CONSTRUCT NEW SIDEWALKS, DEDICATED BIKE LANES AND RETAINING WALLS ALONG DOLWICK ROAD TO MINEOLA PIKE TO OLYMPIC BLVD IN THE CITY OF ERLANGER. (2016 BOP)	PL				
					DN				
					RW	SNK	80,000		
					UT	SNK	200,000		
					CN	SNK		1,576,000	
				Project Cost:			280,000	1,576,000	0
BOONE	442	CR-1001	MATCHED FED FUNDS(O)	ADD A LEFT TURN LANE ON SB CAMP ERNST ROAD AT LONGBRANCH ROAD (2016BOP).	PL				
					DN				
					RW	SNK	400,000		
					UT	SNK	69,271		
					CN	SNK		461,809	
				Project Cost:			469,271	461,809	0
BOONE	444	KY-236	MAJOR WIDENING(O)	IMPROVE SAFETY AND REDUCE CONGESTION ALONG KY-236 (DONALDSON ROAD) FROM KY-842 (HOUSTON ROAD) TO KY-3076 (MINEOLA PIKE).	PL	STP		2,000,000	
					DN	STP			5,000,000
					RW				
					UT				
					CN				
				Project Cost:			0	2,000,000	5,000,000
BOONE	445	KY-3076	MAJOR WIDENING(O)	IMPROVE FREIGHT MOBILITY AND REDUCE CONGESTION ON KY-3076 (MINEOLA PIKE) FROM KY-236 TO I-275.	PL				
					DN	STP		1,500,000	
					RW				
					UT				
					CN				
				Project Cost:			0	1,500,000	0
BOONE	446	US-42	NEW ROUTE(O)	PROVIDE EAST-WEST CONNECTIVITY AND IMPROVED MOBILITY FROM KY-237 (PLEASANT VALLEY ROAD) THRU KY-842 (HOPEFUL CHURCH ROAD) TO MALL ROAD/I-75 INTERCHANGE.	PL				
					DN	NH			1,500,000
					RW				
					UT				
					CN				
				Project Cost:			0	0	1,500,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOONE	937	-0	SAFETY(P)	SPOT IMPROVEMENTS AND CONGESTION MITIGATION IN BOONE COUNTY FOR AMAZON DEVELOPMENT.	PL DN RW UT CN	SPP	2,000,000		
Project Cost:							2,000,000	0	0
BOONE	937.01	-0	PREFINANCD CONVRSN(O)	SPOT IMPROVEMENTS AND CONGESTION MITIGATION IN BOONE COUNTY FOR AMAZON DEVELOPMENT. (ADDITIONAL FUNDING FOR 6-937.00)	PL DN RW UT CN	SPP		2,000,000	
Project Cost:							0	2,000,000	0
BOONE	966	-0	MATCHED FED FUNDS(O)	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR NKY URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2018. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK	35,140,000		
Project Cost:							35,140,000	0	0
BOONE	966.07	-0	MATCHED FED FUNDS(O)	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR NKY URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2019 (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK		9,100,000	
Project Cost:							0	9,100,000	0
BOONE	966.08	-0	MATCHED FED FUNDS(O)	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR NKY URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2020. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SNK			9,200,000
Project Cost:							0	0	9,200,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOONE	1087	KY-842	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER NS (CNO&TP)RR ON RICHARDSON ROAD (KY 842) 0.14 MI E OF US 25 NEAR INDEPENDENCE (008B00092N)	PL				
					DN	BR		480,000	
					RW	BR			2,800,000
					UT	BR			350,000
					CN				
				Project Cost:			0	480,000	3,150,000
BOONE	3019.1	KY-338	TRANSP ENHANCEMENT(P)	PHASE II: IMPROVE INTERSECTION OPERATIONS AT THE INTERSECTIONS OF IDLEWILD RD. (KY-338)/JEFFERSON ST./TEMPERATE ST. AND IMPROVE PEDESTRIAN SAFETY ALONG IDLEWILD RD. AND JEFFERSON ST. (AS PER	PL				
					DN				
					RW				
					UT				
					CN	STP	500,000		
				Project Cost:			500,000	0	0
BOONE	8001.21	KY-237	RECONSTRUCTION(O)	IMPROVE KY-237 FROM VALLEY VIEW DRIVE TO ROGERS LANE. (14CCR)	PL				
					DN				
					RW				
					UT				
					CN	STP	22,180,000		
				Project Cost:			22,180,000	0	0
BOONE	20002	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 169.439 TO MILEPOINT 183.08	PL				
					DN	PM			2,180,000
					RW				
					UT				
					CN	PM			21,800,000
				Project Cost:			0	0	23,980,000
BOONE	20008	KY-18	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL				
					DN	PM		225,000	
					RW				
					UT				
					CN	PM		2,250,000	
				Project Cost:			0	2,475,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOONE	80000	KY-237	RECONSTRUCTION(O)	RECONSTRUCT GUNPOWDER RD. FROM US-42 TO KY-536	PL DN RW UT CN	SPP		1,000,000	
Project Cost:							<u>0</u>	<u>1,000,000</u>	<u>0</u>
BOONE	80001	KY-237	CONGESTION MITIGTN(O)	EXPANSION OF ROUNDABOUTS ALONG KY-237 AT CARDINAL COVE AND GRAVES RD	PL DN RW UT CN	SPP		500,000	
Project Cost:							<u>0</u>	<u>1,000,000</u>	<u>0</u>
BOONE	80003	US 42	AIR QUALITY(P)	INCREASE CAPACITY AND REDUCE CONGESTION ON US 42 AT I 71/75	PL DN RW UT CN	SPP		650,000	
Project Cost:							<u>0</u>	<u>650,000</u>	<u>0</u>
Total for BOONE county					PL DN RW UT CN		150,000 2,180,000 7,129,271 71,525,040	2,150,000 9,355,000 250,000 16,587,809	150,000 8,680,000 6,800,000 36,100,000
Total Amounts:							<u>80,984,311</u>	<u>28,592,809</u>	<u>55,080,000</u>
BOURBON	365.1	KY-3364	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF STRUCTURE OVER SCOTTS CREEK ON KY 3364, 0.7 MILE NORTH OF US 460 AT NORTH MIDDLETOWN (BRIDGE IMPROVEMENTS). (03KYDN)(2012BOP) (16CCN)	PL DN RW UT CN	KYD	1,568,000		
Project Cost:							<u>1,568,000</u>	<u>0</u>	<u>0</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
BOURBON	8705	US-460	RECONSTRUCTION(O)	IMPROVE US-460 FROM RUSSELL CAVE ROAD TO US-27 BYPASS IN PARIS.(12CCN)(14CCR)(16CCR)	PL				
					DN				
					RW	STP		1,000,000	
					UT	STP		1,000,000	
					CN				
					Project Cost:		0	2,000,000	0
BOURBON	10007	CR-1205	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF HOUSTON ANTIOCH RO BRIDGE OVER HOUSTON CREEK.(009C00031N)	PL				
					DN	BR		143,500	
					RW				
					UT				
					CN	BR			325,500
					Project Cost:		0	143,500	325,500
BOURBON	10008	CR-1320	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF PEACOCK ROAD BRIDGE OVER CSX RR. (009R00605N)	PL				
					DN	BR		220,500	
					RW				
					UT				
					CN	BR			518,000
					Project Cost:		0	220,500	518,000
BOURBON	20002	US-68	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL				
					DN	PM		250,000	
					RW				
					UT				
					CN	PM		2,500,000	
					Project Cost:		0	2,750,000	0
Total for BOURBON county					PL				
					DN		1,568,000	614,000	
					RW			1,000,000	
					UT			1,000,000	
					CN			2,500,000	843,500
					Total Amounts:		1,568,000	5,114,000	843,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOYD	208.04	-0	MATCHED FED FUNDS(O)	FEDERAL 'STP' FUNDS DEDICATED TO HUNTINGTON-ASHLAND MPO FOR FY 2018. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SAH	6,265,000		
Project Cost:							6,265,000	0	0
BOYD	208.05	-0	MATCHED FED FUNDS(O)	FEDERAL 'STP' FUNDS DEDICATED TO HUNTINGTON-ASHLAND MPO FOR FY 2019. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SAH		1,200,000	
Project Cost:							0	1,200,000	0
BOYD	208.06	-0	MATCHED FED FUNDS(O)	FEDERAL 'STP' FUNDS DEDICATED TO HUNTINGTON-ASHLAND MPO FOR FY 2020. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SAH			1,200,000
Project Cost:							0	0	1,200,000
BOYD	404	-0	MATCHED FED FUNDS(O)	PLANNING STUDY/ENVIRONMENTAL ASSESSMENT FOR RUSH OFF ROAD (2016BOP)	PL DN RW UT CN	SAH	48,000		
Project Cost:							48,000	0	0
BOYD	8400	US-60	CONGESTION MITIGTN(O)	IMPROVE US-60 FROM I-64 AT INTERCHANGE 181 TO THE KY-180 INTERSECTION AT CANNONSBURG. (08CCN) (10CCR)(12CCR)	PL DN RW UT CN	SPP			5,000,000
Project Cost:							0	0	5,000,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOYD	8801	US-23	SAFETY(P)	SAFETY UPGRADES AND CONSTRUCT TURN LANES ON US-23 AT 12TH STREET - CATLETTSBURG. (14CCN)	PL				
					DN				
					RW				
					UT				
					CN	SPP	920,000		
					Project Cost:		920,000	0	0
BOYD	10014	US-23	AM-BRIDGE (P)	ADDRESS DEFICIENCIES ON 12TH STREET BRIDGE OVER THE OHIO RIVER. JOINT PROJECT WITH OHIO. (010B00040N)(BSBP)	PL				
					DN				
					RW				
					UT				
					CN	BR	1,750,000		
					Project Cost:		1,750,000	0	0
BOYD	10015	US-60	AM-BRIDGE (P)	PAINTING AND PREVENTIVE MAINTENANCE ON CATLETTSBURG KENOVA BRIDGE ON 35TH ST. OVER THE OHIO RIVER. JOINT PROJECT WITH OHIO. (010B00062N)(BSBP)	PL				
					DN				
					RW				
					UT				
					CN	BR			1,200,000
					Project Cost:		0	0	1,200,000
BOYD	10016	I-64	AM-BRIDGE (P)	ADDRESS DEFICIENCIES ON PERRY GENTRY BRIDGES OVER THE BIG SANDY RIVER. JOINT PROJECT WITH WEST VIRGINIA. (010B00046L AND 010B00046R)(SD)	PL				
					DN				
					RW				
					UT				
					CN	BR			1,500,000
					Project Cost:		0	0	1,500,000
BOYD	10018	KY-854	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 854 BRIDGE OVER GARNER CREEK. (010B00045N)	PL				
					DN	BR		525,000	
					RW				
					UT				
					CN	BR			1,085,000
					Project Cost:		0	525,000	1,085,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BOYD	20002	I-64	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 180.812 TO MILEPOINT 183.95	PL DN RW UT CN	PM		250,000	
Project Cost:							<u>0</u>	<u>2,750,000</u>	<u>0</u>
Total for BOYD county					PL DN RW UT CN		48,000	775,000	
Total Amounts:							<u>8,935,000</u>	<u>3,700,000</u>	<u>9,985,000</u>
BOYLE	242	US-68	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF US 68 AND US 150 BRIDGE OVER CHAPLIN RIVER, PERRYVILLE. (SEE 7-242.01 FOR HPP FUNDS) (2005HPP-KY134)(011B00042N)(SD)	PL DN RW UT CN	BR			1,253,000
Project Cost:							<u>0</u>	<u>0</u>	<u>1,253,000</u>
BOYLE	242.01	US-68	AM-BRIDGE (P)	REPLACE U.S. 68 AND U.S. 150 BRIDGE OVER CHAPLIN RIVER, PERRYVILLE. 011B00042N (2005HPP-KY134)(EARMARK DOES NOT COVER TOTAL PROJECT COST OF \$1,790,000).(SD)	PL DN RW UT CN	HPP	487,797		
Project Cost:							<u>487,797</u>	<u>0</u>	<u>0</u>
Total for BOYLE county					PL DN RW UT CN		487,797		1,253,000
Total Amounts:							<u>487,797</u>	<u>0</u>	<u>1,253,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BRACKEN	355.21	KY-8	FERRY OPERATION(P)	OPERATION OF AUGUSTA FERRY FOR FY 2019. (12CCR)(14CCR)	PL DN RW UT CN	SPP		190,000	
Project Cost:							0	190,000	0
BRACKEN	355.22	KY-8	FERRY OPERATION(P)	OPERATION OF AUGUSTA FERRY FOR FY 2020. (12CCR)(14CCR)	PL DN RW UT CN	SPP			190,000
Project Cost:							0	0	190,000
BRACKEN	10008	KY-8	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 8 BRIDGE OVER HOLTS CREEK AT FOSTER. (012B00004N)	PL DN RW UT CN	BR		455,000	
Project Cost:							0	455,000	3,325,000
Total for BRACKEN county					PL DN RW UT CN			455,000	
Total Amounts:							0	645,000	3,515,000
BREATHITT	376	KY-15	MAJOR WIDENING(O)	IMPROVE KY-15 FROM THE INTERSECTION OF NEW KY-15/30 TO INTERSECTION OF KY-1812.	PL DN RW UT CN	NH		1,500,000	
Project Cost:							0	1,500,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BREATHITT	1110	KY-378	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER FROZEN CREEK ON KY 378 0.7 MI N OF KY 1812. (013B00050N)	PL DN RW UT CN	BR			735,000
					Project Cost:		0	0	735,000
BREATHITT	10000	CR-1233	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF MORRIS FORK ROAD BRIDGE OVER BURTON FORK. (013C00050N)	PL DN RW UT CN	BR		140,000	315,000
					Project Cost:		0	140,000	315,000
BREATHITT	10001	CR-1124	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF LITTLE BUCKHORN ROAD BRIDGE OVER BUCKHORN CREEK. (013C00016N)(SD)	PL DN RW UT CN	BR		140,000	350,000
					Project Cost:		0	140,000	350,000
BREATHITT	10010	KY-1812	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1812 BRIDGE OVER JOHNSON FORK. (013B00007N)	PL DN RW UT CN	BR		175,000	507,500
					Project Cost:		0	175,000	507,500
BREATHITT	10011	CR-1104	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BIG BRANCH ROAD BRIDGE OVER BIG BRANCH CREEK. (013C00008N)	PL DN RW UT CN	BR		175,000	385,000
					Project Cost:		0	175,000	385,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
Total for BREATHITT county					PL				
					DN			2,130,000	
					RW				
					UT				
					CN				2,292,500
					Total Amounts:		0	2,130,000	2,292,500
BRECKINRIDGE	1090	CR-1021	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER SINKING CREEK ON DENTS BRIDGE ROAD (CR 1021) 1.4 MI W OF KY 333 (014C00003N)	PL				
					DN				
					RW				
					UT				
					CN	BR			406,000
					Project Cost:		0	0	406,000
Total for BRECKINRIDGE county					PL				
					DN				
					RW				
					UT				
					CN				406,000
					Total Amounts:		0	0	406,000
BULLITT	150.5	KY-44	RECONSTRUCTION(O)	SECTION 5 - FROM US-31EX TO US-31E BYPASS. (2008BOPC).	PL				
					DN	SPP		1,000,000	
					RW				
					UT				
					CN				
					Project Cost:		0	1,000,000	0
BULLITT	347.51	KY-44	SAFETY(P)	NEW TURN LANES IN FRONT OF BULLITT EAST HIGH SCHOOL. BREAKOUT FROM 347.5	PL				
					DN	SPP		500,000	
					RW	SPP			100,000
					UT				
					CN				
					Project Cost:		0	500,000	100,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BULLITT	538	I-65	NEW INTERCHANGE(O)	CONSTRUCT NEW I-65 INTERCHANGE BETWEEN KY-480 AND KY-245.	PL DN RW UT CN	NH	18,720,000		
Project Cost:							18,720,000	0	0
BULLITT	544	KY-44	BIKE/PED FACIL(O)	INSTALLATION OF NEW SIDEWALKS AND REHABILITATION OF EXISTING SIDEWALKS TO FIX GAPS IN THE PEDESTRIAN NETWORK ALONG KY 44 FROM FRANK E. SIMON DRIVE (CITY PARK DRIVE) EAST TO KY 61 IN SHEPHERDSVILLE.	PL DN RW UT CN	SLO SLO SLO	60,000 60,000	220,000	
Project Cost:							120,000	220,000	0
BULLITT	550	I-65	MAJOR WIDENING(O)	WIDEN I-65 FROM 6 TO 8 LANES FROM KY-61 (PRESTON HIGHWAY) IN LEBANON JUNCTION TO I-265 (GENE SNYDER FREEWAY)	PL DN RW UT CN	NH			250,000
Project Cost:							0	0	250,000
BULLITT	564	-0	NEW ROUTE(O)	STUDY NEW CONNECTION BETWEEN I-65 IN BULLITT COUNTY TO I-64 IN SHELBY COUNTY TO I-71 IN OLDHAM COUNTY.	PL DN RW UT CN	STP		2,000,000	
Project Cost:							0	2,000,000	0
Total for BULLITT county					PL DN RW UT CN			2,000,000 1,500,000 60,000 60,000 18,720,000	250,000 100,000
Total Amounts:							18,840,000	3,720,000	350,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BUTLER	125.14	KY-269	FERRY OPERATION(P)	OPERATION OF REED'S FERRY AT LOGANSPO FOR FY 2019.(12CCR)	PL DN RW UT CN	SPP		157,200	
					Project Cost:		0	157,200	0
BUTLER	125.15	KY-269	FERRY OPERATION(P)	OPERATION OF REED'S FERRY AT LOGANSPO FOR FY 2020.(12CCR)	PL DN RW UT CN	SPP			157,200
					Project Cost:		0	0	157,200
BUTLER	2042.1	WN-9007	RECONSTRUCTION(O)	I-65 SPUR CORRIDOR; MODERNIZATION OF EXISTING NATCHER PARKWAY FROM I-65 INTERCHANGE (EXIT 2) EXTENDING NORTH TO THE BUTLER-OHIO COUNTY LINE. (2016BOP)	PL DN RW UT CN	NH		18,250,000	
					Project Cost:		0	18,250,000	0
BUTLER	8504.09	KY-369	FERRY OPERATION(P)	OPERATION OF THE ROCHESTER FERRY BY THE BUTLER AND OHIO COUNTY FERRY AUTHORITY FOR FY 2019.(12CCR)	PL DN RW UT CN	SPP		157,200	
					Project Cost:		0	157,200	0
BUTLER	8504.1	KY-369	FERRY OPERATION(P)	OPERATION OF THE ROCHESTER FERRY BY THE BUTLER AND OHIO COUNTY FERRY AUTHORITY FOR FY 2020.(12CCR)	PL DN RW UT CN	SPP			157,200
					Project Cost:		0	0	157,200

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
BUTLER	10003	KY-70	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-70 BRIDGE OVER PANTHER CREEK. (016B00019N)	PL DN RW UT CN	BR		245,000	
					Project Cost:		0	245,000	889,000
BUTLER	10004	CR-1008	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF WAVERLY SCHOOL ROAD BRIDGE OVER LITTLE BULL CREEK. (016C00031N)	PL DN RW UT CN	BR		157,500	
					Project Cost:		0	157,500	266,000
BUTLER	20010	WN-9007	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON WILLIAM H. NATCHER PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 34.724 TO MILEPOINT 37.143	PL DN RW UT CN	PM		240,000	
					Project Cost:		0	2,400,000	0
Total for BUTLER county					PL DN RW UT CN			642,500	
					Total Amounts:		0	20,964,400	1,469,400
CALDWELL	10000	KY-126	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-126 BRIDGE OVER DREEN CREEK. (017B00023N)	PL DN RW UT CN	BR		245,000	
					Project Cost:		0	245,000	1,312,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for CALDWELL county					PL				
					DN			245,000	
					RW				
					UT				
					CN				1,312,500
					Total Amounts:		<u>0</u>	<u>245,000</u>	<u>1,312,500</u>
CALLOWAY	314.1	US-641	MAJOR WIDENING(O)	MAJOR WIDENING FROM TENN. STATE LINE TO MURRAY PRIORITY SECTION 1; FROM CLARKS RIVER BRIDGE, NORTH 1.0 MILE TO EXISTING 4-LANE.(SEE 1-8852.00)(12CCR)	PL				
					DN				
					RW				
					UT				
					CN	SPP	6,040,000		
					Project Cost:		<u>6,040,000</u>	<u>0</u>	<u>0</u>
CALLOWAY	314.2	US-641	MAJOR WIDENING(O)	IMPROVE US-641 FROM THE TENNESSEE STATE LINE TO MURRAY PRIORITY SECTION 2; FROM TENN. STATE LINE TO CLARKS RIVER BRIDGE. (SEE 1-8852.00)	PL				
					DN	NH	2,000,000		
					RW	NH		2,000,000	
					UT	NH		3,000,000	
					CN				
					Project Cost:		<u>2,000,000</u>	<u>5,000,000</u>	<u>0</u>
CALLOWAY	10008	KY-280	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 280 BRIDGE OVER PANTHER CREEK. (018B00054N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			735,000
					Project Cost:		<u>0</u>	<u>140,000</u>	<u>735,000</u>
CALLOWAY	20001	KY-1327	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL				
					DN	PM		175,000	
					RW				
					UT				
					CN	PM		1,750,000	
					Project Cost:		<u>0</u>	<u>1,925,000</u>	<u>0</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for CALLOWAY county					PL				
					DN		2,000,000	315,000	
					RW			2,000,000	
					UT			3,000,000	
					CN		6,040,000	1,750,000	735,000
					Total Amounts:		8,040,000	7,065,000	735,000
CAMPBELL	183	I-471	RECONSTRUCTION(O)	STUDY AND REHABILITATE THE I-471 CORRIDOR, CAMPBELL COUNTY, KENTUCKY. (SEE ALSO 6-8104.00)(2005HPP-KY120)	PL				
					DN				
					RW				
					UT				
					CN	HPP	1,439,840		
					Project Cost:		1,439,840	0	0
CAMPBELL	369	I-275	AM-BRIDGE (P)	BRIDGE REHABILITATION ON EXISTING COMBS HEHL BRIDGE CARRYING I-275 OVER THE OHIO RIVER. 019B00040L/R (LET BY ODOT) (2016BOP)(BSBP)	PL				
					DN				
					RW				
					UT				
					CN	BR		4,500,000	
					Project Cost:		0	4,500,000	0
CAMPBELL	427	KY-1892	MATCHED FED FUNDS(O)	ROADWAY REHABILITATION ON CAROTHERS ROAD FROM MONMOUTH STREET (US 27) TO RIGHT TURN LANE INTO NEWPORT SHOPPING CENTER.	PL				
					DN				
					RW				
					UT				
					CN	SNK	1,005,052		
					Project Cost:		1,005,052	0	0
CAMPBELL	434	-0	MATCHED FED FUNDS(O)	NEWPORT RIVERFRONT COMMONS - CONSTRUCT TWO NEW PEDESTRIAN/BICYCLE BRIDGES TO CONNECT BOTH SIDES OF THE TAYLOR SOUTHGATE BRIDGE TO THE TRAILS ON TOP OF THE LEVEE (2016BOP)	PL				
					DN				
					RW				
					UT				
					CN	SNK	1,097,427		
					Project Cost:		1,097,427	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CAMPBELL	443	US-27	MATCHED FED FUNDS(O)	ADD LANE ON US 27 TO PROVIDE THREE CONTINUOUS SOUTHBOUND THROUGH-LANES FROM MARSHALL LANE TO JOHNS HILL ROAD (KY 3490). (2016BOP)	PL DN RW UT CN	 SNK SNK SNK	 200,000 100,000	 500,000	 0
Project Cost:							300,000	500,000	0
CAMPBELL	451	US-27	BIKE/PED FACIL(O)	SOUTH MONMOUTH PHASE 1. IMPROVE/ADD SIDEWALKS, ACCESS MANAGEMENT, STREET LIGHTING, IMPROVE SAFETY FROM NEWPORT/SOUTHGATE CITY LIMITS TO CAROTHERS ROAD.	PL DN RW UT CN	 SNK SNK SNK	454,960 1,496,000	 61,600 1,496,000	 1,200,000
Project Cost:							454,960	1,557,600	1,200,000
CAMPBELL	452	US-27	BIKE/PED FACIL(O)	US 27 SOUTH MONMOUTH UNDERPASS. IMPROVE FOR PEDESTRIANS BY REPLACING OBSOLETE STAIRS/WALKWAY WITH 10' SIDEWALK, LIGHTING BUS STOPS AT THE UNDERPASS OF THE CSX RAILROAD BRIDGE	PL DN RW UT CN	 SNK SNK SNK	 	 	378,400 32,000 24,000
Project Cost:							0	0	434,400
CAMPBELL	453	-0	BIKE/PED FACIL(O)	RIVERFRONT COMMONS. CONSTRUCT A 15' WIDE CONCRETE BICYCLE/PEDESTRIAN TRAIL AND CONDUIT FOR FUTURE LIGHTING FROM BERRY STREET TO FOURTH AVENUE. PART OF 11.5 MILE PROJECT.	PL DN RW UT CN	 SNK SNK	 	126,000	760,000
Project Cost:							0	126,000	760,000
CAMPBELL	1085	KY-8	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER TWELVEMILE CREEK ON KY 8 0.1 MI N OF NEISES ROAD (CR 1009). (019B00003N)	PL DN RW UT CN	 BR BR BR	 50,000 150,000	 	2,500,000
Project Cost:							0	200,000	2,500,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CAMPBELL	1095	CR-1363	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON COVERT RUN PIKE (CR-1363) (0.048) OVER TRIBUTARY TO TAYLOR CREEK. 019C00069N	PL DN RW UT CN	BR		122,500	
Project Cost:							0	122,500	630,000
CAMPBELL	8105.01	I-275	NEW ROUTE(O)	TRANSPORTATION IMPROVEMENTS TO AA-I-275 CONNECTOR, CAMPBELL COUNTY. (2005HPP-KY155)(SEE 6-8105.00 FOR "KYD" COMPONENT)(06CCR)(10CCR)	PL DN RW UT CN	HPP	690,401		
Project Cost:							690,401	0	0
CAMPBELL	8105.03	-0	NEW ROUTE(O)	CONSTRUCT NEW TECHNOLOGY TRIANGLE ACCESS ROAD, CAMPBELL COUNTY, KENTUCKY. (2005HPP-KY126)(2006BOPC). (10CCR)	PL DN RW UT CN	HPP	1,439,840		
Project Cost:							1,439,840	0	0
CAMPBELL	10000	KY-2238	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF GIBSON ROAD BRIDGE OVER THREEMILE CREEK. (019B00060N)	PL DN RW UT CN	BR		140,000	
Project Cost:							0	140,000	318,500
CAMPBELL	10007	US-27	AM-BRIDGE (P)	SAFETY CABLE REPAIR AND PREVENTIVE MAINTENANCE ON TAYLOR SOUTHGATE BRIDGE OVER THE OHIO RIVER. JOINT PROJECT WITH OHIO. (019B00076N)(BSBP)	PL DN RW UT CN	BR	250,000		
Project Cost:							250,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CAMPBELL	20016	US-27	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL				
					DN	PM		75,000	
					RW				
					UT				
					CN	PM		750,000	
				Project Cost:			<u>0</u>	<u>825,000</u>	<u>0</u>
Total for CAMPBELL county					PL				
					DN		454,960	463,500	378,400
					RW		200,000	111,600	32,000
					UT		100,000	1,646,000	24,000
					CN		5,922,560	5,750,000	5,408,500
				Total Amounts:			<u>6,677,520</u>	<u>7,971,100</u>	<u>5,842,900</u>
CARLISLE	333	US-51	SAFETY(P)	CORRECT GEOMETRIC DEFICIENCIES AT INTERSECTION OF US-51/US-62/FRONT ST/ELM ST IN BARDWELL TO ADDRESS FLOW, SAFETY, AND ACCESS ISSUES.(12CCR)	PL				
					DN				
					RW				
					UT				
					CN	SPP			250,000
				Project Cost:			<u>0</u>	<u>0</u>	<u>250,000</u>
CARLISLE	20027	US-51	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION ON US-51 FROM MILEPOINT 7.86 TO MILEPOINT 12.66	PL				
					DN				
					RW				
					UT				
					CN	PM			746,000
				Project Cost:			<u>0</u>	<u>0</u>	<u>746,000</u>
Total for CARLISLE county					PL				
					DN				
					RW				
					UT				
					CN				996,000
				Total Amounts:			<u>0</u>	<u>0</u>	<u>996,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CARROLL	1084	US-42	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER KENTUCKY RIVER ON US 42 IN PRESTONVILLE/CARROLLTON 0.13 MI E OF KY 55. (021B00043N)	PL DN RW UT CN	 BR BR BR 	 	1,460,000	1,218,000 476,000
Project Cost:							0	1,460,000	1,694,000
CARROLL	10009	KY-55	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 55 BRIDGE OVER MAJORS RUN CREEK. (021B00019N)	PL DN RW UT CN	 BR BR	 	140,000	980,000
Project Cost:							0	140,000	980,000
Total for CARROLL county					PL DN RW UT CN	 	 	1,600,000	1,218,000 476,000 980,000
Total Amounts:							0	1,600,000	2,674,000
CARTER	62	I-64	CONGESTION MITIGTN(O)	IMPROVE MOBILITY AND REDUCE CONGESTION AT THE KY 1/I-64 WESTBOUND OFF-RAMP INTERSECTION.	PL DN RW UT CN	 NH NH NH NH	 	80,000 80,000 80,000 500,000	0
Project Cost:							0	740,000	0
CARTER	397	KY-67	SAFETY(P)	SAFETY, SPOT IMPROVEMENTS AND CONGESTION MITIGATION FOR INDUSTRIAL PARKWAY (KY 67) IN CARTER, BOYD, AND GREENUP COUNTIES FOR BRAIDY INDUSTRIES ALUMINUM PLANT DEVELOPMENT.	PL DN RW UT CN	 NH NH NH NH	2,000,000 	2,500,000 2,500,000	2,000,000
Project Cost:							2,000,000	5,000,000	2,000,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CARTER	1075	US-60	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON US-60 (MP 4.111) OVER TYGARTS CREEK; .75 MI E OF JCT KY 1662; 022B00037N	PL				
					DN				
					RW				
					UT				
					CN	BR	693,000		
					Project Cost:		693,000	0	0
CARTER	8311	KY-1	SAFETY(P)	IMPROVE SAFETY AT THE EAST CARTER HIGH SCHOOL. (06CCN)(08CCR)(12CCR)	PL				
					DN				
					RW	SPP			720,000
					UT				
					CN				
					Project Cost:		0	0	720,000
CARTER	8506	KY-773	AM-BRIDGE (P)	REPLACEMENT OF TWO TRUSS BRIDGES ON KY 773 OVER THE LITTLE SANDY RIVER. (022B00074N)(022B00075N)	PL				
					DN				
					RW				
					UT				
					CN	BR		5,019,000	
					Project Cost:		0	5,019,000	0
CARTER	10002	KY-1	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1 BRIDGE OVER POWELL BRANCH. (022B00006N)	PL				
					DN	BR		525,000	
					RW				
					UT				
					CN	BR			1,015,000
					Project Cost:		0	525,000	1,015,000
CARTER	10003	KY-182	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-182 BRIDGE OVER SINKING CREEK. (022B00140N)	PL				
					DN	BR		490,000	
					RW				
					UT				
					CN	BR			1,750,000
					Project Cost:		0	490,000	1,750,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for CARTER county					PL				
					DN		2,000,000	1,095,000	
					RW			2,580,000	720,000
					UT			2,580,000	
					CN		693,000	5,519,000	4,765,000
					Total Amounts:		2,693,000	11,774,000	5,485,000
CASEY	1067	CR-1169	AM-BRIDGE (P)	REPLACE BRIDGE ON CR-1169 (0.059) OVER SOUTH FORK CREEK. (023C00029N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			532,000
					Project Cost:		0	175,000	532,000
CASEY	8704	KY-49	RECONSTRUCTION(O)	RECONSTRUCT BRUSHY CREEK HILL FROM MP 1.8 TO MP 2.8.(12CCN)	PL				
					DN	SPP		1,250,000	
					RW				
					UT				
					CN				
					Project Cost:		0	1,250,000	0
CASEY	10000	KY-2310	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-2310 BRIDGE OVER LUTTRELL CREEK. (023B00066N)	PL				
					DN	BR		192,500	
					RW				
					UT				
					CN	BR			927,500
					Project Cost:		0	192,500	927,500
CASEY	10006	KY-1552	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1552 BRIDGE OVER BR OF BRUSH CREEK. (023B00061N)	PL				
					DN	BR		70,000	
					RW				
					UT				
					CN	BR			266,000
					Project Cost:		0	70,000	266,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CASEY	10007	KY-1552	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1552 BRIDGE OVER LONG BRANCH. (023B00062N)	PL DN RW UT CN	BR		70,000	
Project Cost:							0	70,000	266,000
CASEY	10008	KY-3270	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 3270 BRIDGE OVER HOWE BRANCH. (023B00077N)	PL DN RW UT CN	BR		70,000	
Project Cost:							0	70,000	234,500
CASEY	20001	KY-70	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION	PL DN RW UT CN	PM		375,000	
Project Cost:							0	3,750,000	0
Total for CASEY county					PL DN RW UT CN			2,202,500	
Total Amounts:							0	5,952,500	2,226,000
CHRISTIAN	180	KY-911	MAJOR WIDENING(O)	IMPROVE KY-911 FROM US-41A TO OAK GROVE.(12CCR).	PL DN RW UT CN	STP			2,530,000
Project Cost:							0	0	2,530,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CHRISTIAN	227	KY-1007	RECONSTRUCTION(O)	RECONSTRUCT KY 1007 FROM US 68 TO SANDERSON ROAD IN HOPKINSVILLE.(12CCR) (14CCR)	PL				
					DN				
					RW				
					UT	SPP			3,250,000
					CN				
					Project Cost:		0	0	3,250,000
CHRISTIAN	381	US-41	NEW ROUTE(O)	CONSTRUCT NEW CONNECTOR FROM US 41 NEAR THE INDUSTRIAL PARK TO KY 115 SOUTH OF PEMBROKE.	PL				
					DN	SPP			1,000,000
					RW				
					UT				
					CN				
					Project Cost:		0	0	1,000,000
CHRISTIAN	898	EB-9004	RECONSTRUCTION(O)	RECONSTRUCT THE BREATHITT PARKWAY INTERCHANGE AT KY 1682 NORTH OF HOPKINSVILLE. (BREATHITT PARKWAY/FUTURE INTERSTATE SPUR PROJECT)	PL				
					DN	NH		250,000	
					RW	NH			1,000,000
					UT				
					CN				
					Project Cost:		0	250,000	1,000,000
CHRISTIAN	1085	CR-1116	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON SUB STATION RD (CR 1116) OVER CSX RR 0.04 MILE E OF US 41 024C00034N	PL				
					DN				
					RW				
					UT				
					CN	BR	880,000		
					Project Cost:		880,000	0	0
CHRISTIAN	1089	US-41	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER CSX RR ON WALNUT STREET (US 41A) IN HOPKINSVILLE 475 FT NE OF EAST 21ST STREET (CS 1016) (024B00112N)	PL				
					DN	BR		385,000	
					RW				
					UT				
					CN	BR			2,002,000
					Project Cost:		0	385,000	2,002,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CHRISTIAN	1094	CS-1262	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER N FORK LITTLE RIVER ON MILBROOKE DRIVE (CS 1262) 500 FT SW OF KAREN DRIVE (CS 1268) 024C00081N	PL DN RW UT CN	BR			1,470,000
					Project Cost:		0	0	1,470,000
CHRISTIAN	10001	KY-189	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-189 BRIDGE OVER BRANCH OF BUCK FORK. (024B00064N)	PL DN RW UT CN	BR		245,000	1,032,500
					Project Cost:		0	245,000	1,032,500
CHRISTIAN	10022	US-41	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF US 41 BRIDGE OVER NORTH FORK LITTLE RIVER. (024B00005N)	PL DN RW UT CN	BR		35,000	175,000
					Project Cost:		0	35,000	175,000
CHRISTIAN	20005	EB-9004	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF EDWARD T. BREATHITT PENNYRILE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 0 TO MILEPOINT 4.719	PL DN RW UT CN	PM		400,000	4,000,000
					Project Cost:		0	400,000	4,000,000
CHRISTIAN	20006	EB-9004	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF EDWARD T. BREATHITT PENNYRILE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 12.13 TO MILEPOINT 16.5 (16.7 NON-CARDINAL)	PL DN RW UT CN	PM			4,120,000
					Project Cost:		0	0	4,120,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CHRISTIAN	80000	KY 115	RESURFACING(P)	RESURFACING ON KY 115 FROM CARNEAL LANE TO US 41	PL				
					DN				
					RW				
					UT				
					CN	PM		730,000	
				Project Cost:			0	730,000	0
CHRISTIAN	80001	US 41A	NEW INTERCHANGE(O)	US 41A NEW TURNING LANE NORTHBOUND AT EXISTING MEDIAN CROSSOVER NEAR MILEPOST 11.4. CITY TO CONSTRUCT AND BE REIMBURSED.	PL				
					DN	SPP		8,000	
					RW				
					UT				
					CN	SPP		67,000	
				Project Cost:			0	75,000	0
CHRISTIAN	80002	KY 1026	RESURFACING(P)	RESURFACING ON KY 1026 FROM GRACEY SINKING FORK ROAD TO SHURDAN CREEK ROAD	PL				
					DN				
					RW				
					UT				
					CN	PM		200,000	
				Project Cost:			0	200,000	0
Total for CHRISTIAN county					PL				
					DN			1,323,000	1,000,000
					RW				1,000,000
					UT				3,250,000
					CN		880,000	997,000	15,329,500
				Total Amounts:			880,000	2,320,000	20,579,500
CLARK	8401	KY-1958	NEW ROUTE(O)	EXTEND THE WINCHESTER EAST BYPASS (KY 1958) FROM IRVINE ROAD (KY 89) TO KY 627 SOUTH OF WINCHESTER. (08CCN)(10CCR)	PL				
					DN	SPP		250,000	
					RW	SPP			7,000,000
					UT				
					CN				
				Project Cost:			0	250,000	7,000,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CLARK	20006	I-64	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-064 BOTH DIRECTION(S) FROM MILEPOINT 98.1 TO MILEPOINT 101.78	PL DN RW UT CN	PM PM			
Project Cost:							0	0	4,300,000 4,730,000
Total for CLARK county					PL DN RW UT CN			250,000	430,000 7,000,000 4,300,000
Total Amounts:							0	250,000	11,730,000
CLAY	1099	CR-1160	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER OTTER CREEK ON OTTER CREEK ROAD (CR 1160) AT JUNCTION WITH MAY FORK ROAD (CR 1158)(026C00031N)	PL DN RW UT CN	BR BR		105,000	
Project Cost:							0	105,000	364,000 364,000
CLAY	8003	US-421	MINOR WIDENING(O)	IMPROVE US-421/KY-80 FROM KY-80 SOUTH TO KY-149 (LOCKARTS CREEK ROAD). (00CCN) (10CCR)(12CCR)	PL DN RW UT CN	 SPP			20,000,000
Project Cost:							0	0	20,000,000
CLAY	8711	CR-1263	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER CURRY BRANCH ROAD IN CLAY COUNTY. (12CCN)	PL DN RW UT CN	 BR		960,000	
Project Cost:							0	960,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CLAY	8856	KY-66	RECONSTRUCTION(O)	IMPROVE GEOMETRICS ON THE S-CURVE FROM NORTHEAST OF KY-3135 (COLLEGE STREET) TO NORTHEAST OF PR-1006 (MULBERRY STREET).(14CCN)	PL DN RW UT CN	SPP		405,000	
Project Cost:							0	405,000	0
CLAY	8861	KY-638	SAFETY(P)	IMPROVE SAFETY AND SIGHT DISTANCE ALONG KY 638 (MP 6.7 TO MP 7.1) AND ITS INTERSECTION WITH KY 3476. (14CCN)	PL DN RW UT CN	SPP SPP			250,000 650,000
Project Cost:							0	0	900,000
CLAY	10003	KY-1850	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1850 BRIDGE OVER PHILLIPS FORK. (026B00087N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	595,000 595,000
CLAY	10004	KY-577	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-577 BRIDGE OVER LITTLE SEXTON CREEK. (026B00093N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	424,000 424,000
CLAY	10005	CR-1055	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CR-1055 BRIDGE OVER WILES BRANCH. (026C00010N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	400,000 400,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CLAY	10006	CR-1117	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF ARNETTS FORK ROAD BRIDGE OVER DOUBLE CREEK. (026C00018N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			364,000
				Project Cost:			0	140,000	364,000
CLAY	10007	CR-1160	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF OTTER CREEK ROAD BRIDGE OVER GOOSE CREEK. (026C00032N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			595,000
				Project Cost:			0	175,000	595,000
CLAY	10008	CR-1255	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CR-1255 BRIDGE OVER HORSE CREEK. (026C00070N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			371,000
				Project Cost:			0	175,000	371,000
CLAY	10009	CR-1118	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF OLD HIGHWAY 66 BRIDGE OVER RED BIRD RIVER. (026C00099N)	PL				
					DN	BR		350,000	
					RW				
					UT				
					CN	BR			2,177,000
				Project Cost:			0	350,000	2,177,000
CLAY	10039	US-421	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF US 421 BRIDGE OVER BRANCH OF ISLAND CREEK. (026B00002N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			647,500
				Project Cost:			0	175,000	647,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CLAY	20003	HR-9006	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF HAL ROGERS DANIEL BOONE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 19.527 TO MILEPOINT 28.4	PL DN RW UT CN	PM		350,000	
					Project Cost:		0	3,850,000	0
CLAY	20004	HR-9006	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF HAL ROGERS DANIEL BOONE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 28.4 TO MILEPOINT 31	PL DN RW UT CN	PM		100,000	
					Project Cost:		0	1,100,000	0
CLAY	20005	HR-9006	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF HAL ROGERS DANIEL BOONE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 31 TO MILEPOINT 35.08	PL DN RW UT CN	PM		160,000	
					Project Cost:		0	1,760,000	0
Total for CLAY county					PL DN RW UT CN			2,255,000	250,000
					Total Amounts:		0	9,720,000	26,837,500
CLINTON	1062	KY-738	AM-BRIDGE (P)	REPLACE BRIDGE OVER CLEAR FORK CREEK ON KY 738 0.2 MI S OF US 127X. (027B00011N) (SR=31.5)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	525,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for CLINTON county					PL				
					DN			175,000	
					RW				
					UT				
					CN				525,000
					Total Amounts:		<u>0</u>	<u>175,000</u>	<u>525,000</u>
CRITTENDEN	326.16	KY-91	FERRY OPERATION(P)	OPERATION OF CAVE-IN-ROCK FERRY AT OHIO RIVER FOR FY 2019.(12CCR)	PL				
					DN				
					RW				
					UT				
					CN	SPP		402,000	
					Project Cost:		<u>0</u>	<u>402,000</u>	<u>0</u>
CRITTENDEN	326.17	KY-91	FERRY OPERATION(P)	OPERATION OF CAVE-IN-ROCK FERRY AT OHIO RIVER FOR FY 2020.(12CCR)	PL				
					DN				
					RW				
					UT				
					CN	SPP			402,000
					Project Cost:		<u>0</u>	<u>0</u>	<u>402,000</u>
CRITTENDEN	1159	CR-1085	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON CR-1085 (0.048) OVER HUGHES BRANCH 028C00053N	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR			546,000
					Project Cost:		<u>0</u>	<u>210,000</u>	<u>546,000</u>
CRITTENDEN	10000	KY-91	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-91 BRIDGE OVER CROOKED CREEK. (028B00021N)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			980,000
					Project Cost:		<u>0</u>	<u>245,000</u>	<u>980,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for CRITTENDEN county					PL				
					DN			455,000	
					RW				
					UT				
					CN			402,000	1,928,000
					Total Amounts:		0	857,000	1,928,000
CUMBERLAND	1060	KY-61	AM-BRIDGE (P)	ADDRESS DEFICIENCIES AND PAINTING OF BRIDGE OVER CUMBERLAND RIVER ON KY 61 0.1 MI N OF COLD SPRINGS ROAD (CR 1204). (029B00012N)	PL				
					DN				
					RW				
					UT				
					CN	BR			3,640,000
					Project Cost:		0	0	3,640,000
CUMBERLAND	1061	KY-90	AM-BRIDGE (P)	ADDRESS DEFICIENCIES AND PAINTING OF BRIDGE OVER CUMBERLAND RIVER ON KY 90 0.27 MI SE OF KY 61 AT THE SCL OF BURKESVILLE. (029B00027N)	PL				
					DN				
					RW				
					UT				
					CN	BR			5,200,000
					Project Cost:		0	0	5,200,000
CUMBERLAND	8852	KY-90	RECONSTRUCTION(O)	IMPROVE KY-90 FROM NORRIS BRANCH ROAD EXTENDING WESTERLY TO PA DUERSON ROAD NEAR MARROWBONE. (14CCN)	PL				
					DN	SPP			3,500,000
					RW				
					UT				
					CN				
					Project Cost:		0	0	3,500,000
CUMBERLAND	10001	CR-1012	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF WHETSTONE ROAD BRIDGE OVER BIG WHETSTONE CREEK. (029C00057N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			556,500
					Project Cost:		0	175,000	556,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
CUMBERLAND	10009	KY-379	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 379 BRIDGE OVER BIG WILLIS CREEK. (029B00005N)	PL DN RW UT CN	BR		129,500	
					Project Cost:		0	129,500	952,000
Total for CUMBERLAND county					PL DN RW UT CN			304,500	3,500,000
					Total Amounts:		0	304,500	13,848,500
DAVIESS	229	KY-298	SAFETY(P)	RECONSTRUCT INTERSECTION AT FAIRVIEW DRIVE (KY 3143) AND KY 298. (12CCR)	PL DN RW UT CN	SPP		1,800,000	
					Project Cost:		0	1,800,000	0
DAVIESS	237	US-60	RECONSTRUCTION(O)	RECONSTRUCT ON US 60 BETWEEN OAKFORD RD LOOP (CR 1370) TO ADDRESS FLOODING PROBLEM IN THE VICINITY OF THE KIMBERLY-CLARK PLANT (14CCR)	PL DN RW UT CN	STP		2,000,000	
					Project Cost:		0	2,000,000	0
DAVIESS	2092.1	WN-9007	RECONSTRUCTION(O)	I-65 SPUR CORRIDOR; MODERNIZATION OF EXISTING NATCHER PARKWAY FROM THE OHIO-BUTLER COUNTY LINE (MP 37.143) TO THE US-60 INTERCHANGE (MP 72.264) IN OWENSBORO. (2016BOP)	PL DN RW UT CN	NH	200,000		4,750,000
					Project Cost:		200,000	0	4,750,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
DAVISS	8300	KY-54	MAJOR WIDENING(O)	IMPROVE KY-54 FROM WEST OF THE US-60 BYPASS TO CR-1021 (JACK HINTON ROAD). (06CCN)(10CCR)(12CCR)(14CCR)(16CCR)	PL DN RW UT CN	SPP		10,540,000	
Project Cost:							0	10,540,000	0
DAVISS	8813	CR-1053	AM-BRIDGE (P)	GRAVES LANE BRIDGE REPLACEMENT-0.2 MI E JCT KY 405 (MM 1.005-1.009) OVER ALLGOOD DITCH. (14CCN) 030C00016N	PL DN RW UT CN	BR			619,500
Project Cost:							0	0	619,500
DAVISS	8851	KY-81	MINOR WIDENING(O)	EXTEND THE CURRENT 4 LANES TO THE ROUNDAABOUT AT KY-56/KY-81. (14CCN)	PL DN RW UT CN	SPP	3,750,000		
Project Cost:							3,750,000	0	0
DAVISS	10002	CR-1068	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF ROCKPORT FERRY RD BRIDGE OVER KELLY CREEK. (030C00021N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	647,500
DAVISS	10003	CR-1129	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF OLD KY 54 BRIDGE OVER BR OF N FK PANTHER CREEK. (030C00029N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	647,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
DAVISS	10004	CR-1257	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF LYDANNE BRIDGE S BRIDGE OVER FLAT LICK CREEK. (030C00069N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			717,500
				Project Cost:			0	175,000	717,500
DAVISS	10020	KY-2262	AM-BRIDGE (P)	ADDRESS DEFICIENCIES WITH GLOVER CARY BRIDGE OVER OHIO RIVER. JOINT PROJECT WITH INDIANA. (030B00118N)(BSBP)	PL				
					DN	BR		200,000	
					RW				
					UT				
					CN	BR			2,250,000
				Project Cost:			0	200,000	2,250,000
DAVISS	10021	US-231	AM-BRIDGE (P)	ADDRESS DEFICIENCIES WITH NATCHER BRIDGE OVER OHIO RIVER. JOINT PROJECT WITH INDIANA. (030B00164N)(BSBP)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			10,000,000
				Project Cost:			0	175,000	10,000,000
DAVISS	10023	KY-764	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 764 BRIDGE OVER UNNAMED STREAM. (030B00111N)	PL				
					DN	BR		70,000	
					RW				
					UT				
					CN	BR			350,000
				Project Cost:			0	70,000	350,000
DAVISS	20019	KY-2155	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL				
					DN	PM		150,000	
					RW				
					UT				
					CN	PM		1,500,000	
				Project Cost:			0	1,650,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
DAVISS	20020	WN-9007	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF WILLIAM H. NATCHER PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 61.553 TO MILEPOINT 66.08	PL DN RW UT CN	PM			4,238,000
Project Cost:							0	0	4,238,000
DAVISS	20021	WN-9007	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF WILLIAM H. NATCHER PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 66.08 TO MILEPOINT 72.26	PL DN RW UT CN	PM			5,768,000
Project Cost:							0	0	5,768,000
Total for DAVIESS county					PL DN RW UT CN			1,120,000	
							200,000	10,540,000	
							3,750,000	5,300,000	29,988,000
Total Amounts:							3,950,000	16,960,000	29,988,000
EDMONSON	7030.1	KY-259	SPOT IMPROVEMENTS(O)	RECONSTRUCT KY-70/KY-259 FROM 0.36 MILE NORTH GREEN RIVER BRIDGE AT BROWNSVILLE TO 0.42 MILE NORTH OF THE KY-70/KY-259 INTERSECTION.(06CCR)(2004BOPC)(12CCR)(14CCR)	PL DN RW UT CN	SPP SPP		1,540,000	1,470,000
Project Cost:							0	1,540,000	1,470,000
EDMONSON	10012	KY-743	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 743 BRIDGE OVER BEAVER DAM CREEK. (031B00004N)	PL DN RW UT CN	BR BR		157,500	402,500
Project Cost:							0	157,500	402,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
EDMONSON	20011	I-65	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-065 BOTH DIRECTION(S) FROM MILEPOINT 43.307 TO MILEPOINT 43.6	PL DN RW UT CN	PM		40,000	
Project Cost:							0	440,000	0
Total for EDMONSON county					PL DN RW UT CN			197,500 1,540,000 400,000	1,470,000 402,500
Total Amounts:							0	2,137,500	1,872,500
ELLIOTT	10004	CR-1206	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CR 1206 BRIDGE OVER OVER LITTLE SANDY. (030C00032N)	PL DN RW UT CN	BR		455,000	
Project Cost:							0	455,000	1,663,000
Total for ELLIOTT county					PL DN RW UT CN			455,000	1,663,000
Total Amounts:							0	455,000	1,663,000
ESTILL	206	KY-2459	SPOT IMPROVEMENTS(O)	IMPROVE SAFETY ON KY-2459 (CARHARTT AVE.) FROM KY-89 TO THE RAILROAD BRIDGE.	PL DN RW UT CN	STP			250,000
Project Cost:							0	0	250,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ESTILL	208	KY-1645	RECONSTRUCTION(O)	IMPROVE SAFETY AND MOBILITY ON KY-1645 (KIRKLAND AVE) NEAR CR-1087 (LOCK 12 ROAD).	PL				
					DN	STP		100,000	
					RW	STP			100,000
					UT	STP			50,000
					CN	STP			320,000
				Project Cost:			0	100,000	470,000
ESTILL	10012	KY-794	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 794 BRIDGE OVER WHITE OAK CREEK. (033B00038N)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			735,000
				Project Cost:			0	245,000	735,000
Total for ESTILL county					PL				
					DN			345,000	250,000
					RW				100,000
					UT				50,000
					CN				1,055,000
				Total Amounts:			0	345,000	1,455,000
FAYETTE	224.1	CS-4174	MINOR WIDENING(O)	CLAYS MILL ROAD; WIDEN FROM HARRODSBURG ROAD TO NEW CIRCLE ROAD (SECTION 1) (LFUCG T.I.P.) (LOCAL MATCH)	PL				
				(ALL WORK BY LFUCG) (CONSTRUCTION SEQU. 2) (SUBJECT TO FISCAL CONSTRAINT PENDING	DN				
					RW				
					UT	SLX		1,900,000	
					CN	SLX		11,000,000	
				Project Cost:			0	12,900,000	0
FAYETTE	227.07	-0	MATCHED FED FUNDS(O)	VARIOUS 'SLX' CONTINUING PROGRAM PROJECTS (RIDESHARE/MOBILITY, AIR QUALITY PLANNING, TRAFFIC SIGNAL) FOR FY 2018.	PL				
				(LOCAL MATCH) (ALL WORK BY LFUCG)	DN				
				(FUNDING SUBJECT TO FISCAL CONSTRAINT	RW				
					UT				
					CN	SLX	730,000		
				Project Cost:			730,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FAYETTE	227.08	-0	MATCHED FED FUNDS(O)	VARIOUS 'SLX' CONTINUING PROGRAM PROJECTS (RIDESHARE/MOBILITY, AIR QUALITY PLANNING, TRAFFIC SIGNAL) FOR FY 2019. (LOCAL MATCH) (ALL WORK BY LFUCG) (FUNDING SUBJECT TO FISCAL CONSTRAINT	PL DN RW UT CN	SLX		756,000	
Project Cost:							0	756,000	0
FAYETTE	227.09	-0	MATCHED FED FUNDS(O)	VARIOUS 'SLX' CONTINUING PROGRAM PROJECTS (RIDESHARE/MOBILITY, AIR QUALITY PLANNING, TRAFFIC SIGNAL) FOR FY 2020. (LOCAL MATCH) (ALL WORK BY LFUCG) (FUNDING SUBJECT TO FISCAL CONSTRAINT	PL DN RW UT CN	SLX			756,000
Project Cost:							0	0	756,000
FAYETTE	227.1	-0	MATCHED FED FUNDS(O)	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR LEXINGTON URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2018. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLX	12,400,000		
Project Cost:							12,400,000	0	0
FAYETTE	227.13	-0	MATCHED FED FUNDS(O)	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR LEXINGTON URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2019. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLX		8,000,000	
Project Cost:							0	8,000,000	0
FAYETTE	227.14	-0	MATCHED FED FUNDS(O)	DEDICATED FEDERAL-AID STP FUNDS EARMARKED FOR LEXINGTON URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2020. (FUNDING SUBJECT TO FISCAL CONTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLX			8,200,000
Project Cost:							0	0	8,200,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FAYETTE	229.2	-0	BIKE/PED FACIL(O)	SOUTH ELKHORN TRAIL IN LEXINGTON (PRIORITY SECTION 2); FROM JOSEPH BRYAN WAY THROUGH NS RAILROAD TUNNEL TO WAVELAND HISTORIC SITE (ALL WORK BY LFUCG). (FUNDING SUBJECT TO FISCAL	PL DN RW UT CN	SLX	400,000		
Project Cost:							400,000	0	0
FAYETTE	229.3	-0	BIKE/PED FACIL(O)	SOUTH ELKHORN TRAIL(PRIORITY SECTION 3); FROM LOCHDALE TERRACE, EXTENDING NORTHERLY UNDER MAN O' WAR BOULEVARD TO SHILLITO PARK.(LOCAL MATCH)(DESIGN BY LFUCG)(ALL WORK BY LFUCG)(2004BOPC)	PL DN RW UT CN	SLX	625,000		
Project Cost:							625,000	0	0
FAYETTE	252	KY-922	MAJOR WIDENING(O)	IMPROVE NEWTOWN PIKE FROM KY-4 TO I-75. (16CCR)	PL DN RW UT CN	NH NH		2,000,000 3,000,000	
Project Cost:							0	5,000,000	0
FAYETTE	357.16	KY-169	FERRY OPERATION(P)	OPERATION OF VALLEY VIEW FERRY AT KY RIVER FOR FY 2019.(12CCR)	PL DN RW UT CN	SPP		330,000	
Project Cost:							0	330,000	0
FAYETTE	357.17	KY-169	FERRY OPERATION(P)	OPERATION OF VALLEY VIEW FERRY AT KY RIVER FOR FY 2020.(12CCR)	PL DN RW UT CN	SPP			330,000
Project Cost:							0	0	330,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FAYETTE	366	KY-4	MAJOR WIDENING(O)	WIDEN NEW CIRCLE ROAD IN LEXINGTON FROM GEORGETOWN ROAD TO BOARDWALK AVENUE INCLUDING INTERCHANGE RECONSTRUCTION AT NEWTOWN PIKE.(2002BOPC)(2004BOPP) (10CCR)(12CCR)(14CCR)	PL DN RW UT CN	NH			10,000,000
					Project Cost:		0	0	10,000,000
FAYETTE	412	US-27	RECONSTRUCTION(O)	REPLACE L&N RAILROAD BRIDGE OVERPASS (MP 8.378), IMPROVE DRAINAGE AND TYPICAL SECTION ON US 27 (NORTH BROADWAY) (12CCR)(14CCR)	PL DN RW UT CN	SPP			2,440,000
					Project Cost:		0	0	2,440,000
FAYETTE	428	CS-4524	RECONSTRUCTION(O)	CONSTRUCT TURN LANES AT THE INTERSECTION OF MAN O' WAR BLVD (CS-4524) AND RICHMOND ROAD (US-25).	PL DN RW UT CN	SLX	262,000		0
					Project Cost:		262,000	0	0
FAYETTE	1129	US-421	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON US 421 OVER FORK OF TOWN BRANCH AT INTERSECTION OF US 421 AND BRACKTOWN RD (CS 4008) (034B00018N)(SD)	PL DN RW UT CN	BR		800,000	
					Project Cost:		0	800,000	0
FAYETTE	1132	CS-3605	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON MALABU DRIVE (CS 3605) OVER BRANCH HICKMAN CREEK AT JCT WITH TATES CREEK ROAD (KY 1974) 034C00038N	PL DN RW UT CN	BR	427,000		
					Project Cost:		427,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FAYETTE	1141	CR-1001	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER BRANCH OF NORTH ELKHORN CREEK ON HUME ROAD (CR 1001) 0.7 MI NW OF US 60 (034C00001N)	PL DN RW UT CN	BR		210,000	
Project Cost:							0	210,000	735,000
FAYETTE	1145	CS-7038	MATCHED FED FUNDS(O)	REPLACE DETERIORATED WEST BOUND LANE BRIDGE SECTION OF WILSON DOWNING ROAD BRIDGE ACROSS WEST HICKMAN CREEK.	PL DN RW UT CN	SLX	75,000		
Project Cost:							275,000	350,000	0
FAYETTE	8507	CS-2548	NEW ROUTE(O)	COMPLETE CONSTRUCTION ON POLO CLUB BOULEVARD AT DEERHAVEN LANE AND TODDS ROAD. (08CCN)(FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)(LET BY CITY)	PL DN RW UT CN	SLX	1,600,000		
Project Cost:							1,600,000	0	0
FAYETTE	8801	KY-4	TRANSP ENHANCEMENT(P)	SOUND BARRIERS ALONG OUTER LOOP OF NEW CIRCLE ROAD BETWEEN TATES CREEK ROAD AND NICHOLASVILLE ROAD. (14CCN)	PL DN RW UT CN	SPP			2,300,000
Project Cost:							0	0	2,300,000
FAYETTE	10009	CR-1121	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF MCCALLS MILL RD BRIDGE OVER BOGGS FORK. (034C00009N)	PL DN RW UT CN	BR		157,500	
Project Cost:							0	157,500	360,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FAYETTE	20009	I-64	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-064 CARDINAL DIRECTION(S) FROM MILEPOINT 73.94 TO MILEPOINT 74.729	PL DN RW UT CN	PM		30,000	
Project Cost:							0	3,030,000	0
FAYETTE	20015	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 111.82 TO MILEPOINT 120.792	PL DN RW UT CN	PM			1,080,000
Project Cost:							0	0	10,800,000
FAYETTE	20016	US-421	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM		50,000	
Project Cost:							0	500,000	0
Total for FAYETTE county					PL DN RW UT CN		75,000	447,500	1,080,000
								2,000,000	2,440,000
								4,900,000	
							16,719,000	24,386,000	33,481,500
Total Amounts:							16,794,000	31,733,500	37,001,500
FLEMING	1084	KY-32	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 32 OVER MUD LICK CREEK 0.2 MILES W OF CRAINTOWN RD (CR 1302)035B00038N	PL DN RW UT CN	BR			560,000
Project Cost:							0	0	560,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FLEMING	1091	KY-111	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER ALLISON CREEK ON KY 111 1.2 MI N OF KY 156. (035B00016N)(EBRP)	PL DN RW UT CN	BR		455,000	
Project Cost:							0	455,000	2,135,000
FLEMING	1092	CR-1240	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER FLEMING CREEK ON MCINTIRE ROAD (CR 1240) AT THE JCT WITH PIKE BLUFF (CR 1305) (035C00065N)	PL DN RW UT CN	BR		75,000 50,000	
Project Cost:							0	125,000	600,000
FLEMING	8804	KY-111	BRIDGE REHAB(P)	RESTORATION OF GRANGE CITY COVERED BRIDGE LOCATED ON KY-111 BETWEEN FLEMINGSBURG AND GRANGE CITY. (14CCN)	PL DN RW UT CN	TE		1,200,000	
Project Cost:							0	1,200,000	0
FLEMING	8902	KY-11	SAFETY(P)	IMPROVE ACCESS AND RESPONSE TIMES FOR THE FLEMINGSBURG FIRE DEPARTMENT TO THE BYPASS AT MP 11.574.	PL DN RW UT CN	SPP		80,000	
Project Cost:							0	80,000	0
FLEMING	10005	KY-111	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-111 BRIDGE OVER BR OF HILLSBORO CREEK. (035B00018N)	PL DN RW UT CN	BR		455,000	
Project Cost:							0	455,000	1,015,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
FLEMING	10006	KY-367	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-367 BRIDGE OVER JOHNSON CREEK. (035B00074N)	PL				
					DN	BR		375,000	
					RW				
					UT				
					CN	BR			980,000
					Project Cost:		0	375,000	980,000
FLEMING	10019	KY-2508	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 2508 BRIDGE OVER TOWN BRANCH. (035B00030N)	PL				
					DN	BR		315,000	
					RW				
					UT				
					CN	BR			875,000
					Project Cost:		0	315,000	875,000
FLEMING	10020	KY-111	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 111 BRIDGE OVER DAVIS BRANCH. (035B00075N)	PL				
					DN	BR		315,000	
					RW				
					UT				
					CN	BR			752,500
					Project Cost:		0	315,000	752,500
FLEMING	10021	KY-681	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 681 BRIDGE OVER DELANEY CREEK. (035B00103N)	PL				
					DN	BR		315,000	
					RW				
					UT				
					CN	BR			822,500
					Project Cost:		0	315,000	822,500
FLEMING	20009	KY-32	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL				
					DN	PM		1,250,000	
					RW				
					UT				
					CN	PM		12,500,000	
					Project Cost:		0	13,750,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FLEMING	80051	US-32	SAFETY(P)	IMPROVE SAFETY AND SIGHT DISTANCE ON KY-32 BEGINNING AT 0.4 MILES WEST OF FLEMING/ROWAN CO LINE AND ENDING 0.3 MILES EAST OF THE LINE.	PL DN RW UT CN	SPP			50,000
					Project Cost:		<u>0</u>	<u>0</u>	<u>50,000</u>
Total for FLEMING county					PL DN RW UT CN			3,480,000 75,000 50,000 13,780,000	50,000 7,740,000
					Total Amounts:		<u>0</u>	<u>17,385,000</u>	<u>7,790,000</u>
FLOYD	191	US-23	SAFETY(P)	IMPROVE SAFETY AND ACCESS ON US-23 BETWEEN KY-80 AND KY-3384.(12CCR)	PL DN RW UT CN	NH NH		420,000 520,000	
					Project Cost:		<u>0</u>	<u>940,000</u>	<u>0</u>
FLOYD	1111	KY-1100	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 1100 OVER LITTLE PAINT CREEK NEAR FLOYD/JOHNSON COUNTY LINE 036B00002N	PL DN RW UT CN		322,000		
					Project Cost:	BR	<u>322,000</u>	<u>0</u>	<u>0</u>
FLOYD	1119	KY-2557	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER LEVISA FORK ON KY 2557 AT JCT US 23 IN JUSTELL. (036B00040N)	PL DN RW UT CN	BR		525,000	
					Project Cost:	BR	<u>0</u>	<u>525,000</u>	<u>3,010,000</u> <u>3,010,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FLOYD	1121	KY-550	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER BRUSH CREEK ON KY 550 AT JCT WITH KY 850. (036B00015N)(EBRP)	PL DN RW UT CN	BR		210,000	
Project Cost:							0	210,000	1,050,000
FLOYD	8100	KY-122	SAFETY(P)	CURVE REVISION TO INCLUDE IMPROVED SIGHT DISTANCE AND A LEFT TURN LANE ON KY-122 AT THE KY-680 INTERSECTION IN MCDOWELL. (02CCN)(12CCR)	PL DN RW UT CN	SPP		3,950,000	
Project Cost:							0	3,950,000	0
FLOYD	10000	CR-1253	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRYANT BRANCH LEFT FORK OF CLEAR CREEK ROAD BRIDGE OVER LEFT FK OF BEAVER CREEK. (036C00017N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	384,000
FLOYD	10014	KY-466	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 466 BRIDGE OVER LEFT FORK BEAVER CREEK. (036B00032N)	PL DN RW UT CN	BR		140,000	
Project Cost:							0	140,000	274,750
FLOYD	20000	KY-80	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM		1,225,000	
Project Cost:							0	12,250,000	13,475,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FLOYD	80000	US-23	SAFETY(P)	CONSTRUCT NEW INTERSECTION ON US-23 AT THE ENTRANCE TO BETSY LANE HIGH SCHOOL	PL DN RW UT CN	SPP			250,000
Project Cost:							<u>0</u>	<u>0</u>	<u>250,000</u>
Total for FLOYD county					PL DN RW UT CN			2,275,000 420,000 520,000	250,000
Total Amounts:							<u>322,000</u>	<u>16,200,000</u>	<u>4,718,750</u>
FRANKLIN	805	KY-3506	AM-BRIDGE (P)	DEMOLITION OF THE CLOSED ROADWAY SECTION OF THE BROADWAY BRIDGE IN FRANKFORT.	PL DN RW UT CN	BR		300,000	
Project Cost:							<u>0</u>	<u>300,000</u>	<u>0</u>
FRANKLIN	1078	CR-1230	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER BENSON CREEK ON CRAB ORCHARD ROAD (CR 1230) 200 FT NW OF KY 151 NEAR I-64 EXIT 48 (037C00010N) (EBRP)(16CCR)	PL DN RW UT CN	BR	105,000	633,500	
Project Cost:							<u>105,000</u>	<u>633,500</u>	<u>0</u>
FRANKLIN	10000	KY-420	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 420 BRIDGE OVER CEDAR RUN CREEK. (037B00011N)	PL DN RW UT CN	BR		210,000	350,000
Project Cost:							<u>0</u>	<u>210,000</u>	<u>350,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FRANKLIN	10001	KY-1689	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1689 BRIDGE OVER TRIB TO N. ELKHORN CREEK. (037B00034N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	332,500
Total for FRANKLIN county					PL DN RW UT CN		105,000	420,000	
					Total Amounts:		105,000	1,353,500	682,500
FULTON	320.16	KY-1354	FERRY OPERATION(P)	OPERATION OF HICKMAN FERRY AT MISSISSIPPI RIVER FOR FY 2019.(12CCR)	PL DN RW UT CN	SPP		126,000	
					Project Cost:		0	126,000	0
FULTON	320.17	KY-1354	FERRY OPERATION(P)	OPERATION OF HICKMAN FERRY AT MISSISSIPPI RIVER FOR FY 2020.(12CCR)	PL DN RW UT CN	SPP			126,000
					Project Cost:		0	0	126,000
FULTON	10009	KY-1909	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1909 BRIDGE OVER LITTLE BAYOU DE CHIEN CR. (038B00075N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	490,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
FULTON	20002	JC-9003	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF JULIAN M. CARROLL PURCHASE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 0 TO MILEPOINT 1.78	PL DN RW UT CN	PM PM		175,000	
Project Cost:							0	1,925,000	0
Total for FULTON county					PL DN RW UT CN			350,000	
Total Amounts:							0	1,876,000	616,000
								2,226,000	616,000
GARRARD	196.3	US-27	RELOCATION(O)	IMPROVE US-27 FROM WEST LANCASTER BYPASS TO KY-34. (2006BOPC) (16CCN)	PL DN RW UT CN	SPP SPP 		500,000	
Project Cost:							0	500,000	10,000,000
GARRARD	1122	KY-563	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY-563 (MP 3.89) OVER SUGAR CREEK; E-@ JCT KY 39; 040B00034N	PL DN RW UT CN	 BR	406,000		
Project Cost:							406,000	0	0
GARRARD	1138	KY-1972	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER GILBERTS CREEK ON KY 1972 1.4 MI E OF CRAB ORCHARD ROAD (CR 1226) AT SECL OF LANCASTER. (040B00024N)(EBRP)	PL DN RW UT CN	 BR BR		210,000	
Project Cost:							0	210,000	647,500
									647,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
GARRARD	10010	KY-1972	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1972 BRIDGE OVER BRANCH OF GILBERTS CREEK. (040B00025N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	416,500
Total for GARRARD county					PL DN RW UT CN			885,000	10,000,000
Total Amounts:							406,000	885,000	1,064,000
GRANT	8714	CR-1138	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON SOUTH END OF BLANCHET ROAD 0.3 MILES NORTHEAST OF US 25. 041C00012N (12CCN)	PL DN RW UT CN	BR		1,141,000	
Project Cost:							0	1,141,000	0
GRANT	8715	CR-1138	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON NORTH END OF BLANCHET ROAD 0.2 MILES SOUTHEAST OF THE JUNCTION WITH US 25. 041C00014N (12CCN)	PL DN RW UT CN	BR			2,604,000
Project Cost:							0	0	2,604,000
GRANT	8716	CR-1142	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON NORTH END OF DELANEY ROAD 0.1 MILE NORTH OF THE JUNCTION WITH US 25. 041C00016N (12CCN)	PL DN RW UT CN	BR			2,240,000
Project Cost:							0	0	2,240,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
GRANT	10001	KY-22	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-22 BRIDGE OVER CLARKS CRK+BATON ROUGE R. (041B00011N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	1,732,500
GRANT	10002	KY-22	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-22 BRIDGES OVER EAGLE CREEK (041B00014N) AND RATTLESNAKE CREEK (041B00013N).	PL DN RW UT CN	BR		577,500	
					Project Cost:		0	577,500	4,165,000
GRANT	10003	CR-1108	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CYNTHIANA ROAD BRIDGE OVER COOPERTOWN CREEK. (041C00008N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	367,500
GRANT	10010	KY-22	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 22 BRIDGE OVER CLARKS CRK+BATON ROUGE R. (041B00011N)	PL DN RW UT CN	BR		420,000	
					Project Cost:		0	420,000	2,940,000
GRANT	20023	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 143.239 TO MILEPOINT 145.5	PL DN RW UT CN	PM			90,000
					Project Cost:		0	0	900,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
GRANT	20025	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 152.112 TO MILEPOINT 157.7	PL DN RW UT CN	PM		970,000	
					Project Cost:		0	10,670,000	0
GRANT	20027	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 162.52 TO MILEPOINT 164.4	PL DN RW UT CN	PM		220,000	
					Project Cost:		0	2,420,000	0
Total for GRANT county					PL DN RW UT CN			2,572,500	90,000
					Total Amounts:		0	15,613,500	15,039,000
GRAVES	181.5	KY-80	NEW ROUTE(O)	MURRAY-MAYFIELD RD; EXTEND MAYFIELD SOUTHERN BYPASS FROM KY-303 SOUTH OF MAYFIELD, NORTHWEST TO JULIAN M. CARROLL PARKWAY (PURCHASE PARKWAY). (EXTENSION OF 1-181.30)(00CCR)(12CCR)	PL DN RW UT CN	SPP			7,280,000
					Project Cost:		0	0	7,280,000
GRAVES	1157	CR-1088	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER PANTHER CREEK ON MCKENDREE CHURCH RD (CR 1088) 0.3 MI E OF KY 301 042C00010N	PL DN RW UT CN	BR		280,000	
					Project Cost:		0	280,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
GRAVES	10001	KY-1890	AM-BRIDGE (P)	REPLACE KY-1890 BRIDGE OVER LITTLE MAYFIELD CREEK. (042B00191N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			507,500
				Project Cost:			0	140,000	507,500
GRAVES	10002	CR-1214	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF MARTIN ROAD BRIDGE OVER BRANCH-OBION CREEK. (042C00250N)	PL				
					DN	BR		200,000	
					RW				
					UT				
					CN				
				Project Cost:			0	200,000	0
GRAVES	10010	KY-1485	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1485 BRIDGE OVER TERRAPIN CREEK. (042B00136N)	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR			875,000
				Project Cost:			0	210,000	875,000
Total for GRAVES county					PL				
					DN			830,000	
					RW				
					UT				
					CN				8,662,500
				Total Amounts:			0	830,000	8,662,500
GRAYSON	8502.1	US-62	MINOR WIDENING(O)	IMPROVE US 62 FROM LEITCHFIELD BYPASS (KY3155) TO JUST EAST OF BEEHIVE CURVE. CONSTRUCTION SEGMENT 1.	PL				
					DN				
					RW				
					UT				
					CN	STP			2,000,000
				Project Cost:			0	0	2,000,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
GRAYSON	8954	KY-3155	NEW ROUTE(O)	EXTEND THE WILLIAM THOMASON BYWAY (KY 3155) FROM THE SOUTHERN INTERSECTION AT KY 259 WESTERLY TO KY 54	PL DN RW UT CN	SPP		1,000,000	
Project Cost:							0	1,000,000	0
GRAYSON	10000	CR-1161	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF HORNTOWN RD BRIDGE OVER ROCK CREEK. (043C00011N)	PL DN RW UT CN	BR		100,000	
Project Cost:							0	100,000	220,000
GRAYSON	20000	WK-9001	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 108.00 TO MILEPOINT 111.25 (110.50 NON-CARDINAL)	PL DN RW UT CN	PM			230,000
Project Cost:							0	0	2,300,000
GRAYSON	20004	WK-9001	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 88.433 TO MILEPOINT 91.2	PL DN RW UT CN	PM			2,590,000
Project Cost:							0	0	2,590,000
GRAYSON	20006	WK-9001	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY NON-CARDINAL DIRECTION(S) FROM MILEPOINT 91.2 TO MILEPOINT 95	PL DN RW UT CN	PM			150,000
Project Cost:							0	0	1,500,000
Project Cost:							0	0	1,650,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
Total for GRAYSON county					PL				
					DN			1,100,000	380,000
					RW				
					UT				
					CN				8,610,000
					Total Amounts:		0	1,100,000	8,990,000
GREEN	397.12	US-68	RECONSTRUCTION(O)	ADDRESS SAFETY, GEOMETRIC DEFICIENCIES AND MAINTENANCE ISSUES ALONG US 68 FROM 1600 FEET WEST OF SOUTH THURLOW RD. (MP 9.682) EXTENDING TO THE RUSSELL CREEK BRIDGE (MP 10.775) (3-203.00 STUDY	PL				
					DN				
					RW	NH		250,000	
					UT	NH		720,000	
					CN	NH			2,740,000
					Project Cost:		0	970,000	2,740,000
GREEN	10001	CR-1347	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF JONES SCHOOL RD BRIDGE OVER BRUSH CREEK. (044C00023N)	PL				
					DN	BR		100,000	
					RW				
					UT				
					CN	BR			203,000
					Project Cost:		0	100,000	203,000
GREEN	10009	US-68	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF US 68 BRIDGE OVER GREASY CREEK. (044B00013N)	PL				
					DN	BR		105,000	
					RW				
					UT				
					CN	BR			402,500
					Project Cost:		0	105,000	402,500
Total for GREEN county					PL				
					DN			205,000	
					RW			250,000	
					UT			720,000	
					CN				3,345,500
					Total Amounts:		0	1,175,000	3,345,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
GREENUP	401	CS-3060	BIKE/PED FACIL(O)	CONSTRUCT SIDEWALKS-PHASE B ALONG GESLING RD (CS-3060) FROM INTERSECTION OF CARDINAL RD (CS-3061) & SEATON DR (KY-750) TO KENWOOD DR (CS-3054/KY-1093) & PHASE C ALONG KENWOOD DR BEGINNING	PL DN RW UT CN	SAH SAH SAH SAH	68,000 20,000 444,000	80,000 444,000	0
Project Cost:							88,000	524,000	0
GREENUP	402	KY-750	MATCHED FED FUNDS(O)	DESIGN AND CONSTRUCTION OF SIDEWALKS ALONG POWELL LANE (KY-750) IN FLATWOODS, KY BEGINNING AT END OF THE EXISTING SIDEWALK AT MP 1.74 AND EXTENDING APPROXIMATELY 0.7 MILES EAST TO	PL DN RW UT CN	SAH SAH SAH SAH	32,000 64,000 370,000	0	0
Project Cost:							466,000	0	0
GREENUP	1073	KY-244	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY-244 (MP 0.103) OVER CSX RAILROAD; .05 MI N.E. OF JCT US 23; 045B00039N (16CCR)	PL DN RW UT CN	BR	11,655,000	0	0
Project Cost:							11,655,000	0	0
GREENUP	1094	CS-4041	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER POND RUN ON WILLIAMS AVE (CS 4041) IN RACELAND 250 FT NW OF POND RUN ROAD (CS 4001) (045C00119N)	PL DN RW UT CN	BR BR	 840,000	245,000	840,000
Project Cost:							0	245,000	840,000
GREENUP	10007	KY-503	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-503 BRIDGE OVER INDIAN RUN CREEK. (045B00033N)	PL DN RW UT CN	BR BR	 753,000	245,000	753,000
Project Cost:							0	245,000	753,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
GREENUP	10008	CR-1018	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF SMITH BRANCH RD BRIDGE OVER LEFT FK SMITH BRANCH. (045C00114N)	PL DN RW UT CN	BR		280,000	
Project Cost:							0	280,000	595,000
GREENUP	10009	LA-1000	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF MUSKETEER DRIVE BRIDGE OVER SLASH BRANCH. (045C00150N)	PL DN RW UT CN	BR		245,000	
Project Cost:							0	245,000	300,000
GREENUP	10022	KY-1	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1 BRIDGE OVER LOST CREEK. (045B00006N)	PL DN RW UT CN	BR		350,000	
Project Cost:							0	350,000	1,015,000
Total for GREENUP county					PL DN RW UT CN		68,000 52,000 64,000 12,025,000	1,365,000 80,000 444,000	
Total Amounts:							12,209,000	1,889,000	3,503,000
HANCOCK	226	US-60	MINOR WIDENING(O)	IMPROVE THE WESTBOUND LANES OF US-60 FROM KY-1957 TO 0.2 MILE WEST OF KY-6106. (12CCR)(14CCR)	PL DN RW UT CN	SPP SPP		90,000	
Project Cost:							0	90,000	960,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for HANCOCK county					PL				
					DN				
					RW			90,000	
					UT				960,000
					CN				
					Total Amounts:		<u>0</u>	<u>90,000</u>	<u>960,000</u>
HARDIN	153.01	KY-251	PHASE I DESIGN(O)	KY 251 IMPROVEMENTS FROM KY 3005 TO KY 434.	PL				
					DN				
					RW				
					UT	BR2		4,200,000	
					CN				
					Project Cost:		<u>0</u>	<u>4,200,000</u>	<u>0</u>
HARDIN	170	KY-313	MAJOR WIDENING(O)	WIDEN KY 313 TO 4 LANES BETWEEN PATRIOT PARKWAY (MP 10.598) AND THE BULLION BOULEVARD CONNECTOR (MP 14.534). (2016BOP)	PL				
					DN				
					RW				
					UT	BR2		750,000	
					CN	BR2			12,000,000
					Project Cost:		<u>0</u>	<u>750,000</u>	<u>12,000,000</u>
HARDIN	199	US-31	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER P&L AND CSX RAILROADS (MP 36.4 TO 36.8 IN WEST POINT) (047B00007N).(16CCR)	PL				
					DN				
					RW				
					UT				
					CN	BR		10,500,000	
					Project Cost:		<u>0</u>	<u>10,500,000</u>	<u>0</u>
HARDIN	1093	US-62	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON US 62 OVER ROLLING FORK AT THE HARDIN-NELSON CO LINE. 047B00023N	PL				
					DN				
					RW				
					UT				
					CN	BR			3,381,000
					Project Cost:		<u>0</u>	<u>0</u>	<u>3,381,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HARDIN	7020	KY-361	SAFETY(P)	RELOCATE INTERSECTION OF WOODLAND DRIVE AT US-31W. (98CCN)(06CCR)(REMAINING FUNDS FOR AGREEMENT)(12CCR)(LET BY KYTC)	PL DN RW UT CN	BR2			2,500,000
Project Cost:							0	0	2,500,000
HARDIN	8801	KY-1357	SAFETY(P)	IMPROVE SAFETY, GEOMETRICS, DRAINAGE AND MAINTENANCE ISSUES ALONG KY-1357 (ST. JOHNS RD) FROM US-31W BYPASS TO KY-3005 (RING ROAD). (14CCN)	PL DN RW UT CN	SPP			3,000,000
Project Cost:							0	0	3,000,000
HARDIN	10010	KY-220	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 220 BRIDGE OVER MARTINS BRANCH CREEK. (047B00080N)	PL DN RW UT CN	BR		87,500	
Project Cost:							0	87,500	192,500
HARDIN	10011	KY-2212	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 2212 BRIDGE OVER PAWLEY CREEK. (047B00134N)	PL DN RW UT CN	BR		91,000	
Project Cost:							0	91,000	206,500
HARDIN	10012	KY-2800	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 2800 BRIDGE OVER SANDY CREEK. (047B00137N)	PL DN RW UT CN	BR		87,500	
Project Cost:							0	87,500	206,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HARDIN	10013	CR-1100	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BEWLEY HOLLOW RD BRIDGE OVER MILL CREEK. (047C00014N)	PL				
					DN	BR		91,000	
					RW				
					UT				
					CN	BR			227,500
				Project Cost:			0	91,000	227,500
HARDIN	20007	BG-9002	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF MARTHA LAYNE COLLINS BLUEGRASS PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 5.82 TO MILEPOINT 8.837	PL				
					DN	PM		240,000	
					RW				
					UT				
					CN	PM		2,400,000	
				Project Cost:			0	2,640,000	0
HARDIN	20011	US-31	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION	PL				
					DN	PM		550,000	
					RW				
					UT				
					CN	PM		5,500,000	
				Project Cost:			0	6,050,000	0
HARDIN	20012	US-31	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION	PL				
					DN	PM		250,000	
					RW				
					UT				
					CN	PM		2,500,000	
				Project Cost:			0	2,750,000	0
HARDIN	20014	US-31	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL				
					DN	PM			25,000
					RW				
					UT				
					CN	PM			250,000
				Project Cost:			0	0	275,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HARDIN	20018	WK-9001	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY CARDINAL DIRECTION(S) FROM MILEPOINT 132.4 TO MILEPOINT 134.923	PL DN RW UT CN	PM PM		200,000	
Project Cost:							0	2,200,000	0
Total for HARDIN county					PL DN RW UT CN			1,597,000	25,000
Total Amounts:							0	22,900,000	3,000,000
							0	4,950,000	18,964,000
							0	22,900,000	18,964,000
							0	29,447,000	21,989,000
HARLAN	1097	KY-219	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER WALLINS CREEK ON KY 219 3.0 MILE SOUTH OF SCL OF WALLINS CREEK. (048B00047N)	PL DN RW UT CN	BR BR		175,000	
Project Cost:							0	175,000	510,000
HARLAN	1101	US-119	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON US 119 OVER KY 160/MAIN ST IN HARLAN COUNTY, KY. 048B00126N	PL DN RW UT CN	BR BR		560,000	
Project Cost:							0	560,000	5,460,000
HARLAN	1107	CR-1328	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON SWEET BALL RD (CR-1328) (0.175) OVER AGES BRANCH. 048C00072N	PL DN RW UT CN	BR BR		175,000	
Project Cost:							0	175,000	455,000
							0	175,000	455,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HARLAN	10010	KY-219	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-219 BRIDGE OVER WALLINS CREEK. (048B00046N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			490,000
				Project Cost:			0	175,000	490,000
HARLAN	10011	KY-219	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-219 BRIDGE OVER WALLINS CREEK. (048B00048N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			367,500
				Project Cost:			0	175,000	367,500
HARLAN	10012	KY-72	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-72 BRIDGE OVER CLOVER FK CUMBERLAND RVR. (048B00095N)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			910,000
				Project Cost:			0	245,000	910,000
HARLAN	10013	KY-179	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-179 BRIDGE OVER FUGETT CREEK. (048B00097N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			612,500
				Project Cost:			0	175,000	612,500
HARLAN	10014	KY-3451	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-3451 BRIDGE OVER EWING CREEK. (048B00146N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			525,000
				Project Cost:			0	175,000	525,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HARLAN	10015	KY-2007	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-2007 BRIDGE OVER WALLINS CREEK. (048B00179N)	PL				
					DN	BR		192,500	
					RW				
					UT				
					CN	BR			469,000
				Project Cost:			0	192,500	469,000
HARLAN	10016	CR-1020	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF RASNICK RD BRIDGE OVER POOR FK CUMBERLAND RVR. (048C00008N)	PL				
					DN	BR		192,500	
					RW				
					UT				
					CN	BR			630,000
				Project Cost:			0	192,500	630,000
HARLAN	10017	CR-1218	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BLUE LN BRIDGE OVER PATH FK OF PUCKETT CREEK. (048C00043N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			581,000
				Project Cost:			0	175,000	581,000
HARLAN	10018	CS-1041	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KENTUCKY AV BRIDGE OVER MARTINS FK CUMBERLAND RV. (048C00067N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			647,500
				Project Cost:			0	175,000	647,500
HARLAN	10019	CR-1082	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF PRICE LN BRIDGE OVER CLOVER FK CUMBERLAND RVR. (048C00094N)	PL				
					DN	BR		192,500	
					RW				
					UT				
					CN	BR			598,500
				Project Cost:			0	192,500	598,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HARLAN	10020	CR-1253	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BANNER FORK RD BRIDGE OVER WALLINS CREEK. (048C00138N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	427,000
HARLAN	10040	KY-1604	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1601 BRIDGE OVER JONES CREEK. (048B00073N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	740,600
Total for HARLAN county					PL DN RW UT CN			3,132,500	
					Total Amounts:		0	3,132,500	13,423,600
HART	441	KY-335	ECONOMIC DEVEL(O)	IMPROVE MOBILITY, CONNECTIVITY AND SAFETY BY ADDRESSING COMMERCIAL AND INDUSTRIAL TRAFFIC MOVEMENT FROM US-31W SOUTH OF KY-218 TO I-65. (16CCR)	PL DN RW UT CN	NH			1,500,000
					Project Cost:		0	0	1,500,000
Total for HART county					PL DN RW UT CN				1,500,000
					Total Amounts:		0	0	1,500,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HENDERSON	382	US-60	RECONSTRUCTION(O)	WATHEN LANE: UPGRADE WITH WIDENED LANES, CURB, GUTTER AND SIDEWALK FROM US 60 TO CITY LIMITS.	PL DN RW UT CN	SHN	304,000		
Project Cost:							<u>304,000</u>	<u>0</u>	<u>0</u>
HENDERSON	383	CS-1372	RECONSTRUCTION(O)	IMPROVE SAFETY AND REDUCE CONGESTION ON CS-1372 (WATSON LANE)	PL DN RW UT CN	SPP SPP		400,000	1,400,000
Project Cost:							<u>0</u>	<u>400,000</u>	<u>1,400,000</u>
HENDERSON	700.13	-0	MATCHED FED FUNDS(O)	FEDERAL 'STP' FUNDS DEDICATED TO HENDERSON FOR FY 2018. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SHN	1,176,000		
Project Cost:							<u>1,176,000</u>	<u>0</u>	<u>0</u>
HENDERSON	700.14	-0	MATCHED FED FUNDS(O)	FEDERAL 'STP' FUNDS DEDICATED TO HENDERSON FOR FY 2019. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SHN		700,000	
Project Cost:							<u>0</u>	<u>700,000</u>	<u>0</u>
HENDERSON	700.15	-0	MATCHED FED FUNDS(O)	FEDERAL 'STP' FUNDS DEDICATED TO HENDERSON FOR FY 2020. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SHN			700,000
Project Cost:							<u>0</u>	<u>0</u>	<u>700,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HENDERSON	711	US-41	SAFETY(P)	US 41/KY 812 INTERSECTION UPGRADE: ADD RIGHT TURN AND LEFT TURN LANES INCLUDING SIGNAL PHASING. KYTC PROJECT WITH KYTC PROVIDING 20% MATCH.(TOLL CREDITS) (FUNDING SUBJECT TO FISCAL CONSTRAINT	PL DN RW UT CN	 SHN SHN SHN	 50,000 100,000 950,000		
Project Cost:							1,100,000	0	0
HENDERSON	713	CS-1453	AM-BRIDGE (P)	WATHEN BRIDGE REPLACEMENT: REPLACE EXISTING BRIDGE WITH 6FT PRECAST CONCRETE BOX CULVERT, PAVEMENT AND GUARDRAIL. LPA PROJECT. CITY TO PROVIDE MATCH.(FUNDING SUBJECT TO FISCAL	PL DN RW UT CN	 SHN SHN	 20,000 160,000		
Project Cost:							180,000	0	0
HENDERSON	714	KY-2183	MATCHED FED FUNDS(O)	KY 2183 / KY 1539 INTERSECTION AND UPGRADE: PROJECT WILL RECONSTRUCT THE INTERSECTION AND MAKE IMPROVEMENTS TO THE SOUTHBOUND APPROACH. (2012BOP)	PL DN RW UT CN	 SHN SHN SHN	 150,000 400,000	600,000	
Project Cost:							550,000	600,000	0
HENDERSON	715	US-41	MATCHED FED FUNDS(O)	US 41/ WOLF HILLS ROAD INTERSECTION UPGRADE: PROJECT WILL ADD DEDICATED RIGHT TURN AND LEFT TURN LANES INCLUDING SIGNAL PHASING TO BE MODIFIED OR ADDED TO EACH LEG OF THE INTERSECTION. (2012BOP)	PL DN RW UT CN	 SHN SHN SHN	 50,000 100,000	500,000	
Project Cost:							150,000	500,000	0
HENDERSON	1080	US-60	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON US 60 OVER GREEN RIVER AT INTERSECTION WITH KY 1078 051B00015N.(12CCR)	PL DN RW UT CN	 BR		6,000,000	
Project Cost:							0	6,000,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HENDERSON	1080.01	US-60	PREFINANCD CONVRSN(O)	ADDRESS DEFICIENCIES OF BRIDGE ON US 60 OVER GREEN RIVER AT INTERSECTION WITH KY 1078. (SR 39) 051B00015N (ADDITIONAL FUNDING FOR C PHASE)	PL DN RW UT CN	BR			6,000,000
Project Cost:							0	0	6,000,000
HENDERSON	1088.1	I-69	NEW ROUTE(O)	DEVELOP ALIGNMENT FOR I-69 HENDERSON/EVANSVILLE OHIO RIVER CROSSING (TO BE DEVELOPED IN CONCERT WITH 2-1088.00).(16CCR)(C-COST=\$1.0 BILLION; KYTC SHARE \$600 MILLION)	PL DN RW UT CN	NH		500,000	
Project Cost:							0	500,000	0
Total for HENDERSON county					PL DN RW UT CN		304,000 250,000 620,000 2,286,000	900,000	1,400,000 6,700,000
Total Amounts:							3,460,000	8,700,000	8,100,000
HENRY	8300	KY-146	RECONSTRUCTION(O)	MAJOR RECONSTRUCTION OF KY-146 BETWEEN NEW CASTLE AT US-421 AND PENDLETON AT KY-153. SEGMENT 1: PENDLETON ROAD (KY 153) TO LOST CREEK (1/2 MILE EAST OF SAFETY KLEEN ENTRANCE). MILE POINT 2.1 TO	PL DN RW UT CN	SPP		6,930,000	
Project Cost:							0	6,930,000	0
HENRY	10002	KY-997	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 997 BRIDGE OVER WHITE SULPHUR CREEK. (052B00060N)	PL DN RW UT CN	BR		192,500	266,000
Project Cost:							0	192,500	266,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HENRY	10003	KY-3175	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 3175 BRIDGE OVER WHITE SULPHUR FORK. (052B00064N)	PL				
					DN	BR		262,500	
					RW				
					UT				
					CN	BR			574,000
					Project Cost:		0	262,500	574,000
HENRY	10004	KY-3320	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 3320 BRIDGE OVER TRIB OF HARRODS CREEK. (052B00070N)	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR			287,000
					Project Cost:		0	210,000	287,000
HENRY	10006	CR-1027	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF GULLION RUN RD BRIDGE OVER TRIB OF GULLION RUN. (052C00045N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			231,000
					Project Cost:		0	175,000	231,000
HENRY	10017	KY-1606	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1606 BRIDGE OVER WHITE SULPHUR FORK. (052B00048N)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			1,022,000
					Project Cost:		0	245,000	1,022,000
HENRY	20002	I-71	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-071 BOTH DIRECTION(S) FROM MILEPOINT 24.727 TO MILEPOINT 28.173.	PL				
					DN	PM		450,000	
					RW				
					UT				
					CN	PM		4,500,000	
					Project Cost:		0	4,950,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HENRY	20007	I-71	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-071 CARDINAL DIRECTION(S) FROM MILEPOINT 37.183 TO MILEPOINT 38.086	PL DN RW UT CN	PM PM			400,000
Project Cost:							0	0	440,000
Total for HENRY county					PL DN RW UT CN			1,535,000	40,000
Total Amounts:							0	11,430,000	2,780,000
							0	12,965,000	2,820,000
HICKMAN	1062	KY-1826	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE AND APPROACHES ON KY-1826 OVER TOWN CREEK (B79) IN CLINTON. (053B00079N)	PL DN RW UT CN	 BR		1,400,000	
Project Cost:							0	1,400,000	0
HICKMAN	1156	CR-1011	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER IC RR ON BALTIMORE RD (CR 1011) 0.3 MI NW OF HICKMAN/GRAVES CO LINE 053C00003N	PL DN RW UT CN	 BR BR		266,000	
Project Cost:							0	266,000	1,613,500
							0	266,000	1,613,500
HICKMAN	10011	KY-2206	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 2206 BRIDGE OVER CANE CR FK -OBION CRK. (053B00090N)	PL DN RW UT CN	 BR BR		210,000	
Project Cost:							0	210,000	875,000
							0	210,000	875,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for HICKMAN county					PL				
					DN			476,000	
					RW				
					UT				
					CN			1,400,000	2,488,500
					Total Amounts:		<u>0</u>	<u>1,876,000</u>	<u>2,488,500</u>
HOPKINS	137.02	US-41	MAJOR WIDENING(O)	US 41A PHASE II DESIGN AND RIGHT-OF-WAY. (2005HPP-KY135)(SEE 2-137.01 FOR "STP" COMPONENT)	PL				
					DN				
					RW				
					UT				
					CN	HPP	2,879,680		
					Project Cost:		<u>2,879,680</u>	<u>0</u>	<u>0</u>
HOPKINS	137.1	US-41	MAJOR WIDENING(O)	IMPROVE US-41A FROM INDUSTRIAL DRIVE TO YORKWOOD PLACE. (SECTION 1) (2012BOP) (16CCR)	PL				
					DN				
					RW				
					UT				
					CN	SPP			5,000,000
					Project Cost:		<u>0</u>	<u>0</u>	<u>5,000,000</u>
HOPKINS	137.2	US-41	MAJOR WIDENING(O)	WIDEN US-41A FROM YORKWOOD PLACE TO US-41 / KY-281. (SECTION 2) (2012BOP)(16CCR)	PL				
					DN				
					RW				
					UT				
					CN	SPP	8,000,000		
					Project Cost:		<u>8,000,000</u>	<u>0</u>	<u>0</u>
HOPKINS	804	-0	NEW ROUTE(O)	CONSTRUCTION OF THE CENTER STREET CONNECTOR ROAD BEGINNING AT CENTER STREET AND PROCEEDING TO THE CSX RAILROAD, SECTION 1, A DISTANCE 5,173 LINEAR FEET, THENCE PROCEEDING THROUGH A	PL				
					DN	SPP		400,000	
					RW	SPP		200,000	
					UT	SPP			800,000
					CN				
					Project Cost:		<u>0</u>	<u>600,000</u>	<u>800,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
HOPKINS	1072	KY-260	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY-260 (MP 2.14) OVER OTTER CREEK; .20 MI EAST OF PENNYRILE PARKWAY; 054B00022N (14CCR)	PL DN RW UT CN	BR	1,085,000		
					Project Cost:		1,085,000	0	0
HOPKINS	10005	KY-70	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-70 BRIDGE OVER SUGAR CREEK. (054B00088N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	1,242,500
HOPKINS	10006	KY-70	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-70 BRIDGE OVER CLEAR CREEK. (054B00182N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	1,295,000
HOPKINS	10024	KY-138	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 138 BRIDGE OVER POND RIVER. (054B00009N)	PL DN RW UT CN	BR		35,000	
					Project Cost:		0	35,000	245,000
HOPKINS	10025	KY-109	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 109 BRIDGE OVER TRADEWATER RIVER. (054B00079N)	PL DN RW UT CN	BR		35,000	
					Project Cost:		0	35,000	175,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for HOPKINS county					PL				
					DN			890,000	
					RW			200,000	
					UT				800,000
					CN		11,964,680		7,957,500
					Total Amounts:		11,964,680	1,090,000	8,757,500
JACKSON	278.3	KY-30	RECONSTRUCTION(O)	IMPROVE KY-30 FROM US-421 TO THE OWSLEY COUNTY LINE. (14CCR)(SEE 10-279.60 FOR PE & ENVIR)(16CCR)(TO BE LET WITH 10-279.61)	PL				
					DN				
					RW				
					UT				
					CN	STP		18,500,000	
					Project Cost:		0	18,500,000	0
JACKSON	10041	KY-89	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 89 BRIDGE OVER HORSE LICK CREEK. (055B00028N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			1,820,000
					Project Cost:		0	175,000	1,820,000
Total for JACKSON county					PL				
					DN			175,000	
					RW				
					UT				
					CN			18,500,000	1,820,000
					Total Amounts:		0	18,675,000	1,820,000
JEFFERSON	48.1	I-71	RECONSTRUCTION(O)	ADDITION OF NB AND SB AUXILIARY LANES ON I-71 NEAR KENNEDY, INCLUDING OPERATIONAL IMPROVEMENTS TO THE ZORN INTERCHANGE. (2004BOPC)	PL				
					DN	NH		800,000	
					RW	NH			1,500,000
					UT	NH			1,000,000
					CN				
					Project Cost:		0	800,000	2,500,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	64	I-64	AM-BRIDGE (P)	ADDRESS DEFICIENCIES ON I-64 SHERMAN MINTON BRIDGE OVER THE OHIO RIVER. (JOINT PROJECT WITH INDIANA)(056B00279N)(BSBP)	PL DN RW UT CN	BR		2,000,000	
					Project Cost:		0	2,000,000	5,000,000
JEFFERSON	91.02	CS-1001	MAJOR WIDENING(O)	WIDEN RIVER ROAD FROM 2 TO 4 LANES FROM EAST OF BEARGRASS CREEK NEAR POPE AVENUE TO ZORN AVENUE. TO INCLUDE BIKE LANES. PROJECT LENGTH 1.3 MILES.	PL DN RW UT CN	SLO		11,500,000	
					Project Cost:		0	11,500,000	0
JEFFERSON	91.08	CS-1001	NEW ROUTE(O)	EXTENSION OF RIVER ROAD, LOUISVILLE. (2006KYD)(SEE 5-512.00 FOR PROJECT INFORMATION)	PL DN RW UT CN	SLO SLO SLO	550,000	540,000	540,000
					Project Cost:		550,000	540,000	540,000
JEFFERSON	159	I-64	RECONSTRUCTION(O)	IMPROVE RAMP CAPACITY OF THE I-64 WESTBOUND RAMP TO I-264 WESTBOUND FROM ONE TO TWO LANES FOR ENTIRE LENGTH AND OTHER NEEDED IMPROVEMENTS TO ADDRESS WEAVE ISSUES AT MERGE ON I-264.	PL DN RW UT CN	NH		10,130,000	
					Project Cost:		0	10,130,000	0
JEFFERSON	247.1	KY-1450	MAJOR WIDENING(O)	WIDEN BLUE LICK ROAD FROM SNYDER FREEWAY NORTH TO KY-61 (LOU T.I.P.) (SECTION 2) (RU-04DEOB)(08CCR)(12CCR) (16CCR)	PL DN RW UT CN	STP			4,500,000
					Project Cost:		0	0	4,500,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	353	CR-1006	MINOR WIDENING(O)	WIDEN ENGLISH STATION ROAD FROM 2 TO 3 LANE) FROM AIKEN ROAD TO AVOCA ROAD. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SLO			6,408,000
Project Cost:							0	0	6,408,000
JEFFERSON	371.13	KY-22	SAFETY(P)	RECONSTRUCT KY-22 AT GOOSE CREEK ROAD. (06CCN) (2004BOPC)(14CCR)	PL DN RW UT CN	STP			1,320,000
Project Cost:							0	0	1,320,000
JEFFERSON	378.1	I-65	RECONSTRUCTION(O)	EXTEND AND RECONSTRUCT I-65 SB RAMP TO BROOK STREET AND FLOYD STREET. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLO SLO	750,000	750,000	0
Project Cost:							750,000	750,000	0
JEFFERSON	404.01	-0	NEW ROUTE(O)	PHASE 3.EXTEND AND CONSTRUCT 2 LANE ROADWAY WITH CONTINUOUS CENTER-TURN LANE FROM KY 864 (BEULAH CHURCH RD) TO US 31E (BARDSTOWN RD) AT BARDSTOWN FALLS RD. PROJECT WILL INCORPORATE	PL DN RW UT CN	SLO SLO	3,200,000 1,500,000		0
Project Cost:							4,700,000	0	0
JEFFERSON	413	US-150	SAFETY(P)	ALIGN INTERSECTION OF BROADWAY AND 18TH STREET BY MOVING THE SOUTH LEG OF 18TH STREET TO THE EAST. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLO	1,000,000		0
Project Cost:							1,000,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	439.05	-0	BIKE/PED FACIL(O)	REHABILITATION AND CONSTRUCTION OF VARIOUS SIDEWALK PROJECTS IN LOUISVILLE METRO. (2006BOPC) (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP).	PL DN RW UT CN	SLO	100,000		
Project Cost:							100,000	0	0
JEFFERSON	470	CS-1014	RECONSTRUCTION(O)	CONVERSION OF ONE-WAY STREETS IN DOWNTOWN LOUISVILLE TO TWO-WAY TRAFFIC (MAIN,JEFFERSON,LIBERTY, MUHAMMAD ALI, CHESTNUT,3RD STREETS). PHASE 1	PL DN RW UT CN	SLO	195,000		
Project Cost:							4,195,000	0	0
JEFFERSON	470.1	CS-1049	RECONSTRUCTION(O)	CONVERSION OF ONE-WAY STREETS IN DOWNTOWN LOUISVILLE TO TWO-WAY TRAFFIC (8TH, 7TH, SHELBY, CAMPBELL STREETS). PHASE 2	PL DN RW UT CN	SLO	60,000		
Project Cost:							60,000	600,000	0
JEFFERSON	478	US-31	SAFETY(P)	DIXIE HIGHWAY ADDITIONAL DESIGN FUNDS. IMPROVE DIXIE HIGHWAY BETWEEN CRUMS LANE (KY 2049) AND ROCKFORD LANE (KY 2051)(12CCR)	PL DN RW UT CN	SLO	4,000,000		
Project Cost:							4,000,000	0	0
JEFFERSON	479	CR-1005	RECONSTRUCTION(O)	WIDEN HUBBARDS LANE FROM 2 TO 3 LANES (3RD LANE WILL BE A CENTER TURN LANE) FROM US 60 (SHELBYVILLE ROAD) TO KY 1447 (WESTPORT ROAD). ADD BIKE LANES TO HUBBARDS LANE FROM KRESGE WAY TO KY	PL DN RW UT CN	SLO	260,000 350,000	2,900,000	
Project Cost:							610,000	2,900,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	481	KY-864	MATCHED FED FUNDS(O)	KY 864 - WIDEN BEULAH CHURCH ROAD FROM 2 TO 3 LANES FROM I-265 TO CEDAR CREEK ROAD.(2010BOP)	PL DN RW UT CN	SLO SLO	2,950,000	1,975,000	
Project Cost:							2,950,000	1,975,000	0
JEFFERSON	483	I-71	MAJOR WIDENING(O)	SIX LANE PRIORITY SECTION OF I-71 BETWEEN I-265 AND KY-329.(16CCR)	PL DN RW UT CN	NH NH NH	500,000 500,000	15,000,000	
Project Cost:							1,000,000	15,000,000	0
JEFFERSON	483.01	I-71	PREFINANCD CONVRSN(O)	SIX LANE PRIORITY SECTION OF I-71 BETWEEN I-265 AND KY-329.(16CCR)	PL DN RW UT CN	NH			15,000,000
Project Cost:							0	0	15,000,000
JEFFERSON	486	-0	BIKE/PED FACIL(O)	GOOD SAMARITAN BICYCLE/PEDESTRIAN TRAIL CONNECTOR:CONSTRUCT A MULTI-USE BICYCLE & PEDESTRIAN TRAIL ALONG OLD TAYLORSVILLE ROAD & JEFFERSON ST IN DOWNTOWN JEFFERSON TOWN CONNECTING	PL DN RW UT CN	SLO	1,300,000		
Project Cost:							1,300,000	0	0
JEFFERSON	489	-0	BIKE/PED FACIL(O)	DESIGN & CONSTRUCT SHARED USE PATH & LOUISVILLE LOOP TRAILHEAD FACILITIES THRU JEFFERSON MEMORIAL FOREST FROM NORTH END OF SAND QUARRY TUNNEL AT GENE SNYDER FWY TO WEST TERMINUS OF EXISTING	PL DN RW UT CN	SLO SLO SLO	100,000 55,000	2,000,000	
Project Cost:							155,000	2,000,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	493	-0	BIKE/PED FACIL(O)	MISCELLANEOUS SIDEWALKS AND HANDICAP RAMPS: CONSTRUCT AND REPLACE VARIOUS SIDEWALKS AND HANDICAP RAMPS THROUGHOUT THE CITY ON A REOCCURRING ANNUAL BASIS.	PL DN RW UT CN	SLO	37,800		
Project Cost:							37,800	0	0
JEFFERSON	495	KY-1020	BIKE/PED FACIL(O)	OLMSTED PARKWAYS MULTI-USE PATH SYSTEM-SOUTHERN PKWY: CONSTRUCTION OF A 2.5 MILE SHARED USE PATH SYSTEM ALONG SOUTHERN PARKWAY BETWEEN SOUTH 3RD AND NEW CUT ROAD.	PL DN RW UT CN	SLO SLO	400,000	100,000	
Project Cost:							400,000	100,000	0
JEFFERSON	496	KY-2054	BIKE/PED FACIL(O)	CONSTRUCTION OF A 0.5 MILE SHARED USE PATH SYSTEM ALONG ALGONQUIN PARKWAY BETWEEN WILSON AVENUE AND CYPRESS STREET.	PL DN RW UT CN	SLO SLO SLO	160,000	80,000	1,500,000
Project Cost:							160,000	80,000	1,500,000
JEFFERSON	497	KY-2054	BIKE/PED FACIL(O)	CONSTRUCTION OF A 0.45 MILE SHARED USE PATH SYSTEM ALONG ALGONQUIN PARKWAY BETWEEN CYPRESS STREET AND DIXIE HWY.	PL DN RW UT CN	SLO SLO SLO	160,000 80,000	1,148,945	
Project Cost:							240,000	1,148,945	0
JEFFERSON	498	KY-2054	BIKE/PED FACIL(O)	CONSTRUCTION OF A 1.2 MILE SHARED USE PATH SYSTEM ALONG ALGONQUIN PARKWAY BETWEEN DIXIE HIGHWAY AND SHARP AVE.	PL DN RW UT CN	SLO SLO SLO	200,000	160,000	3,063,854
Project Cost:							200,000	160,000	3,063,854

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	499	CR-1001	BIKE/PED FACIL(O)	RIVER ROAD BICYCLE AND PEDESTRIAN IMPROVEMENTS FROM DOWNTOWN LOUISVILLE TO THE CITY OF PROSPECT (US 42), 8.5 MILES. (SEE 5-3036.00)	PL DN RW UT CN	SLO			200,000
Project Cost:							0	0	200,000
JEFFERSON	505	-0	BIKE/PED FACIL(O)	OHIO RIVER LEVEE TRAIL PHASE III. CONSTRUCT BICYCLE/PEDESTRIAN FACILITIES ALONG CAMPGROUND ROAD FROM END OF SHARED USE PATH AT THE RAILROAD CROSSING ON CAMPGROUND ROAD NEAR I-264 TO LEES LANE	PL DN RW UT CN	SLO SLO SLO	800,000	750,000	3,000,000
Project Cost:							800,000	750,000	3,000,000
JEFFERSON	518	CR-1004	MINOR WIDENING(O)	WIDEN WATTERSON TRAIL FROM 2 TO 3 LANES FROM RUCKRIEGEL PARKWAY TO MAPLE ROAD, AND WIDEN WATTERSON TRAIL FROM 2 TO 3 LANES FROM OLD TAYLORSVILLE ROAD TO RUCKRIEGEL PARKWAY. PROJECT TO INCLUDE	PL DN RW UT CN	SLO SLO SLO	264,000 352,000	1,232,000	0
Project Cost:							616,000	1,232,000	0
JEFFERSON	521	I-64	AM-BRIDGE (P)	REPAIR DRAINAGE SYSTEM ON THE I-64 BRIDGE OVER N.S. RAILROAD AND THE LEVEE AND REPAIR THE LEVEE.(056B00284N)(2014BOP)(SD)	PL DN RW UT CN	BR			400,000
Project Cost:							0	0	400,000
JEFFERSON	523	-0	BIKE/PED FACIL(O)	DESIGN AND CONSTRUCT SHARED USE PATH AND LOUISVILLE LOOP TRAILHEAD FACILITIES THROUGH JEFFERSON MEMORIAL FOREST FROM BLEVINS GAP ROAD TO NORTH END OF SAND QUARRY TUNNEL AT GENE SNYDER FWY	PL DN RW UT CN	SLO SLO SLO	55,000 60,000	2,000,000	0
Project Cost:							115,000	2,000,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	524	-0	BIKE/PED FACIL(O)	DESIGN AND CONSTRUCT SHARED USE PATH AND LOUISVILLE LOOP TRAILHEAD FACILITIES THROUGH JEFFERSON MEMORIAL FOREST FROM PENDLETON RD AT MEDORA RD TO THE BEGINNING OF JEFFERSON MEMORIAL FOREST	PL DN RW UT CN	 SLO SLO	100,000	1,000,000	0
Project Cost:							100,000	1,000,000	0
JEFFERSON	525	KY-2841	MATCHED FED FUNDS(O)	NORTHEAST LOUISVILLE LOOP SECTION II. CONSTRUCT A SHARED USE PATH ALONG US 60 FROM EASTWOOD CUTOFF TO EASTWOOD RECREATION CENTER. (METRO PARKS PROJECT) (2014BOP)	PL DN RW UT CN	 SLO SLO SLO	533,333 45,000	450,000	0
Project Cost:							578,333	450,000	0
JEFFERSON	529	-0	BIKE/PED FACIL(O)	CONST MULTIUSE PATH THRU AB SAWYER PK CONNECT TO SURROUNDING NEIGHBORHOODS INCLUDE: UNDERPASS/BRIDGE/SITE AMENITIES/CONSTRUCTION OF PEDESTRIAN FACILITIES ALONG HURSTBOURNE PKWY FR	PL DN RW UT CN	 SLO SLO SLO	50,000 300,000	1,500,000	0
Project Cost:							350,000	1,500,000	0
JEFFERSON	531	KY-1932	MATCHED FED FUNDS(O)	IMPROVE THE SAFETY AND CONGESTION OF KY 1932 (CHENOWETH LANE) FROM US 60 (SHELBYVILLE ROAD) TO US 42 (BROWNSBORO ROAD) APPROXIMATELY 1.07 MILES (2014BOP).	PL DN RW UT CN	 SLO SLO 	650,000 215,000		0
Project Cost:							865,000	0	0
JEFFERSON	536	KY-1931	MINOR WIDENING(O)	WIDEN KY 1931 (MANSCLICK ROAD) FROM 2 TO 3 LANES FROM US 31W (DIXIE HWY) TO DOSS HIGH SCHOOL. 1.7 MILES (2014BOP)	PL DN RW UT CN	 SLO SLO 	3,000,000	6,000,000	0
Project Cost:							3,000,000	6,000,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	537	I-265	MAJOR WIDENING(O)	SIX LANE PRIORITY SECTION OF I-265 BETWEEN TAYLORSVILLE ROAD AND I-71.	PL				
					DN	NH	5,800,000		
					RW	NH			1,580,000
					UT	NH			2,080,000
					CN				
					Project Cost:		5,800,000	0	3,660,000
JEFFERSON	539	I-71	RECONSTRUCTION(O)	PROVIDE COLLECTOR-DISTRIBUTOR LANE ON SOUTHBOUND I-71 TO FACILITATE RAMP MOVEMENTS TO AND FROM I-265.	PL				
					DN				
					RW				
					UT				
					CN	NH		5,400,000	
					Project Cost:		0	5,400,000	0
JEFFERSON	543	CS-1002	MATCHED FED FUNDS(O)	BLUEGRASS COMMERCE PARK BICYCLE/PEDESTRIAN TRAIL PROJECT PHASE II ALONG BLUEGRASS PARKWAY FROM WATTERSON TRAIL TO TUCKER STATION ROAD AND ALONG TUCKER STATION ROAD FROM	PL				
					DN				
					RW				
					UT				
					CN	SLO	1,300,000		
					Project Cost:		1,300,000	0	0
JEFFERSON	549	I-265	I-CHANGE RECONST(O)	RECONSTRUCTION OF THE I-265/I-64 INTERCHANGE. (2016BOP)	PL				
					DN	NH	1,000,000		
					RW	NH		1,000,000	
					UT	NH		1,000,000	
					CN	NH			10,000,000
					Project Cost:		1,000,000	2,000,000	10,000,000
JEFFERSON	553	I-64	CONGESTION MITIGTN(O)	IMPROVEMENTS WITHIN THE I-64 CORRIDOR FROM THE KENNEDY INTERCHANGE TO I-264 (WATTERSON EXPRESSWAY) ADDRESSING SAFETY AND CONGESTION ISSUES. THE IMPROVEMENTS MAY INCLUDE BUT ARE NOT	PL	NH		250,000	
					DN				
					RW				
					UT				
					CN				
					Project Cost:		0	250,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	555	KY-1747	CONGESTION MITIGTN(O)	REDUCE CONGESTION AND IMPROVE SAFETY ALONG KY-1747 (HURSTBOURNE PARKWAY) FROM STONY BROOK DRIVE TO I-64.	PL DN RW UT CN	NH		250,000	
Project Cost:							0	250,000	0
JEFFERSON	557	I-71	MAJOR WIDENING(O)	IMPROVE SAFETY AND REDUCE CONGESTION ON I-71 FROM I-264 TO I-265.	PL DN RW UT CN	NH		2,000,000	
Project Cost:							0	2,000,000	0
JEFFERSON	559	I-65	RECONSTRUCTION(O)	IMPROVE SAFETY AND REDUCE CONGESTION AT THE I-65/I-264 (WATTERSON EXPRESSWAY) INTERCHANGE.	PL DN RW UT CN	NH		500,000	
Project Cost:							0	500,000	0
JEFFERSON	561	-0	RECONSTRUCTION(O)	INTERSECTION RE-BUILD AT MAIN STREET/ STORY AVENUE / BAXTER AVENUE INCLUDING TRANSITIONS BETWEEN WENTZEL STREET TO THE WEST AND JOHNSON STREET TO THE EAST.	PL DN RW UT CN	SLO	176,000		
Project Cost:							176,000	176,000	0
JEFFERSON	562	-0	SCOPING STUDY DD (O)	A COMPREHENSIVE OPERATIONAL ANALYSIS (COA) TO ANALYZE AND EVALUATE EXISTING TARC SERVICE IN COMPARISON WITH COMMUNITY GROWTH, ECONOMIC AND LAND USE DEVELOPMENT, AND CURRENT AND	PL DN RW UT CN	SLO	354,000		
Project Cost:							354,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	563	-0	SCOPING STUDY DD (O)	PLANNING STUDY:EXAMINE NEED FOR BICYCLE/PED/VEHICULAR ACCESS IMPROVEMENTS TO PROPOSED DIXIE BRT IN CORRIDORS: KY 907 FR US 31W TO STONESTREET RD, ROCKFORD LN FR CANE RUN	PL DN RW UT CN	SLO	352,000		
Project Cost:							<u>352,000</u>	<u>0</u>	<u>0</u>
JEFFERSON	808	KY-155	DESIGN ENGINEERING(O)	SAFETY PROJECT FOR RECONSTRUCTION OF TAYLORSVILLE ROAD AND SOUTH POPE LICK ROAD INTERSECTION AND BRIDGE OVER POPE LICK CREEK. (2016BOP)	PL DN RW UT CN	STP STP STP		180,000 150,000 1,800,000	
Project Cost:							<u>0</u>	<u>2,130,000</u>	<u>0</u>
JEFFERSON	965.16	-0	MATCHED FED FUNDS(O)	DEDICATED FEDERAL AID STP FUNDS EARMARKED FOR LOUISVILLE URBANIZED AREA AND SUBJECT TO MPO CONTROL FOR FY 2018 (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLO	24,007,000		
Project Cost:							<u>24,007,000</u>	<u>0</u>	<u>0</u>
JEFFERSON	1061	CR-1038	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON CR-1038L OVER BEE LICK CREEK 056C00104N	PL DN RW UT CN	BR	231,000		
Project Cost:							<u>231,000</u>	<u>0</u>	<u>0</u>
JEFFERSON	1067	US-150	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON E BROADWAY (US 150) OVER SOUTH FORK BEARGRASS CREEK AT INTERSECTION WITH BRENT STREET (CS 1312G)056B00348N (SD)	PL DN RW UT CN	BR		850,000	
Project Cost:							<u>0</u>	<u>850,000</u>	<u>0</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	1070	CS-1017	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON E KENTUCKY ST (CS 1017G) OVER SOUTH FORK BEARGRASS CREEK 0.01 MILE E OF SCHILLER AVE (CS 1138G) 056C00083N	PL DN RW UT CN	BR		497,000	
Project Cost:							0	497,000	0
JEFFERSON	1077	CR-1001	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER NORTHERN DITCH ON GRADE LANE (CR 1001G) 0.34 MI S OF KY 1747 (FERN VALLEY ROAD) (056C00064N)	PL DN RW UT CN	BR		20,000 50,000	850,000
Project Cost:							0	70,000	850,000
JEFFERSON	1079	CR-1001	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER GOOSE CREEK ON RIVER ROAD (CR 1001B) 0.2 MI N OF LIME KILN ROAD (CR 1002B) (056C00130N)	PL DN RW UT CN	BR		315,000	917,000
Project Cost:							0	315,000	917,000
JEFFERSON	3030.1	US-60	TRANSP ENHANCEMENT(P)	NORTHEAST LOUISVILLE LOOP MET SECTION 1 BECKLEY WOODS TO BECKLEY STATION. CONSTRUCT A SHARED USE PATH ALONG US 60 FROM BECKLEY WOODS TO BECKLEY STATION, 0.5 MILE. (2016BOP)	PL DN RW UT CN	SLO	50,000 700,000		
Project Cost:							750,000	0	0
JEFFERSON	3030.2	US-60	TRANSP ENHANCEMENT(P)	NORTHEAST LOUISVILLE LOOP MET SECTION 2 BECKLEY STATION TO BIRCHAM ROAD. CONSTRUCT A SHARED USE PATH ALONG US 60 FROM BECKLEY STATION TO BIRCHAM ROAD. 0.7 MILE (2016BOP)	PL DN RW UT CN	SLO	300,000	200,000 800,000	
Project Cost:							300,000	1,000,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	3030.3	US-60	TRANSP ENHANCEMENT(P)	NORTHEAST LOUISVILLE LOOP MET SECTION 3 BIRCHAM ROAD TO BECKLEY CREEK PARK. CONSTRUCT A SHARED USE PATH ALONG US 60 FROM BIRCHAM ROAD TO BECKLEY CREEK PARK, 0.5 MILE. (2016BOP)	PL DN RW UT CN	 SLO SLO SLO	 50,000 75,000	 2,000,000	 0
				Project Cost:			125,000	2,000,000	0
JEFFERSON	3030.4	US-60	TRANSP ENHANCEMENT(P)	NORTHEAST LOUISVILLE LOOP MET SECTION 4 BECKLEY CREEK PARK TO EASTWOOD CUTOFF. CONSTRUCT A SHARED USE PATH ALONG US 60 FROM BECKLEY CREEK PARK TO EASTWOOD CUT OFF, 0.6 MILE. (2016BOP)	PL DN RW UT CN	 SLO SLO	 350,000	 150,000	 0
				Project Cost:			350,000	150,000	0
JEFFERSON	3031	CS-1073	TRANSP ENHANCEMENT(P)	WATTERSON TRAIL PHASE I- IMPROVE STREETSCAPE, RECONSTRUCT SIDEWALKS AND ENHANCE LANDSCAPING FROM MAPLE ROAD TO OLD TAYLORSVILLE ROAD IN JEFFERSONTOWN. (BOPC2012)	PL DN RW UT CN	 SLO SLO	 792,000	 1,856,800	 0
				Project Cost:			792,000	1,856,800	0
JEFFERSON	3039	CS-1367	BIKE/PED FACIL(O)	CONSTRUCT SIDEWALKS ALONG KRATZ LANE FOR .35 MILES BETWEEN SHELBYVILLE RD. AND OLD SHELBYVILLE RD./MAIN ST., INCLUDING SOME DRAINAGE IMPROVEMENTS (2016BOP).	PL DN RW UT CN	 SLO	 234,382	 0	 0
				Project Cost:			234,382	0	0
JEFFERSON	3212	CS-2048	BIKE/PED FACIL(O)	CONSTRUCT A SIDEWALK ALONG CANNONS LANE BETWEEN WILLIS AVE. AND BOWMAN FIELD (SENECA LOOP), 1.0 MILES (2016BOP)	PL DN RW UT CN	 SLO SLO	 100,000	 100,000	 0
				Project Cost:			100,000	100,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	8855	I-265	TRANSP ENHANCEMENT(P)	ERECT SOUND WALL ON NORTH SIDE OF GENE SNYDER FREEWAY FROM MP 15.3 TO MP 16.1. (14CCN)	PL				
					DN				
					RW				
					UT				
					CN	SPP		3,000,000	
					Project Cost:		0	3,000,000	0
JEFFERSON	8860	I-71	TRANSP ENHANCEMENT(P)	DESIGN AND CONSTRUCT A SOUND BARRIER WALL ON THE NORTH SIDE OF I-71 FROM MP 7.5 TO MP 8.7 FOR APPROX. 6400 FEET. (14CCN)	PL				
					DN				
					RW				
					UT				
					CN	SPP			2,304,000
					Project Cost:		0	0	2,304,000
JEFFERSON	8908	KY-155	MINOR WIDENING(O)	WIDEN TAYLORSVILLE RD. TO 3 LANES FROM I-265 TO KY-148	PL	SPP		915,000	
					DN	SPP			1,495,000
					RW				
					UT				
					CN				
					Project Cost:		0	915,000	1,495,000
JEFFERSON	8951	I-64	SPOT IMPROVEMENTS(O)	DESIGN AND CONSTRUCT A SOUND BARRIER WALL ON I-64 WESTBOUND BETWEEN MILEPOINTS 13.7 AND 14.2	PL				
					DN				
					RW				
					UT				
					CN	SPP		2,100,000	
					Project Cost:		0	2,100,000	0
JEFFERSON	8952	US-60	MINOR WIDENING(O)	WIDEN US-60 TO THREE LANES FROM EASTWOOD CUTOFF (MP 14.7) TO ROCKCREST WAY (MP 15.1). (16CCN) (LOCALS WILL DO DESIGN FOR \$330,000)	PL				
					DN				
					RW	SPP		410,000	
					UT	SPP			460,000
					CN				
					Project Cost:		0	410,000	460,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	8957	I-265	SPOT IMPROVEMENTS(O)	DESIGN AND BUILD A NOISE BARRIER WALL ON THE NORTH SIDE OF I-265 BETWEEN MP 15.3 AND MP 16.1 FOR APPROXIMATELY 4700 FEET.	PL DN RW UT CN	SPP	250,000		
					Project Cost:		<u>250,000</u>	<u>0</u>	<u>0</u>
JEFFERSON	10007	CR-1004	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CLARK STATION RD BRIDGE OVER S LONG RUN. (056C00091N)	PL DN RW UT CN	BR		280,000	
					Project Cost:		<u>0</u>	<u>280,000</u>	<u>350,000</u>
JEFFERSON	10008	CS-1079	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF OLD WESTPORT RD BRIDGE OVER GOOSE CREEK. (056C00113N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		<u>0</u>	<u>175,000</u>	<u>301,000</u>
JEFFERSON	10009	CR-1007	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF PENDLETON RD BRIDGE OVER POND CREEK. (056C00118N)(SD)	PL DN RW UT CN	BR		245,000	
					Project Cost:		<u>0</u>	<u>245,000</u>	<u>1,106,000</u>
JEFFERSON	10010	CR-1005	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF S WATTERSON TRL BRIDGE OVER FERN CREEK. (056C00159N)	PL DN RW UT CN	BR		245,000	
					Project Cost:		<u>0</u>	<u>245,000</u>	<u>301,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	10011	CS-1096	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF STONEBRIDGE RD BRIDGE OVER TRIB MUDDY FK BEARGRASS. (056C00240N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	266,000
JEFFERSON	10015	I-64	AM-BRIDGE (P)	ADDRESS DEFICIENCIES ON I-64 RIVERSIDE EXPRESSWAY BRIDGES. (056B00298N,056B00299N,056B00300N,056B00 301N,056B00302N,056B00285N,056B00292N,05 6B00293N,056B00142N)(SD)	PL DN RW UT CN	BR		350,000	
					Project Cost:		0	4,600,000	4,950,000
JEFFERSON	10018	US-31	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF US 31E BRIDGE OVER S FK BEARGRASS CREEK. (056B00137N)	PL DN RW UT CN	BR		350,000	
					Project Cost:		0	350,000	966,000
JEFFERSON	10019	CS-1003	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF SCENIC LOOP BRIDGE OVER MID FK BEARGRASS CREEK. (056C00027N)	PL DN RW UT CN	BR		140,000	
					Project Cost:		0	140,000	406,000
JEFFERSON	10020	CS-3396	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF PARK BOUNDARY RD BRIDGE OVER MID FK BEARGRASS CREEK. (056C00033N)	PL DN RW UT CN	BR		140,000	
					Project Cost:		0	140,000	441,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	10021	CR-1021	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CHAMPIONS TRACE LN BRIDGE OVER S FK BEARGRASS CREEK. (056C00096N)	PL DN RW UT CN	BR		280,000	
					Project Cost:		0	280,000	1,190,000
JEFFERSON	10022	CS-1004	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF OLD CLARK STATION BRIDGE OVER BRUSH RUN. (056C00167N)	PL DN RW UT CN	BR		140,000	
					Project Cost:		0	140,000	357,000
JEFFERSON	10023	CS-1325	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KIMBERLY WAY BRIDGE OVER LITTLE CEDAR CREEK. (056C00182N)	PL DN RW UT CN	BR		140,000	
					Project Cost:		0	140,000	217,000
JEFFERSON	20010	I-64	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-064 CARDINAL DIRECTION(S) FROM MILEPOINT 0.65 TO MILEPOINT 0.828	PL DN RW UT CN	PM		10,000	
					Project Cost:		0	100,000	0
JEFFERSON	20012	I-65	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-065 BOTH DIRECTION(S) FROM MILEPOINT 128.13 TO MILEPOINT 131.24	PL DN RW UT CN	PM			620,000
					Project Cost:		0	0	6,200,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	20015	I-264	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-264 CARDINAL DIRECTION(S) FROM MILEPOINT 0 TO MILEPOINT 0.46	PL				
					DN	PM		30,000	
					RW				
					UT				
					CN	PM		300,000	
					Project Cost:		0	330,000	0
JEFFERSON	20018	I-264	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-264 BOTH DIRECTION(S) FROM MILEPOINT 0.46 TO MILEPOINT 12.7	PL				
					DN	PM			1,220,000
					RW				
					UT				
					CN	PM			12,200,000
					Project Cost:		0	0	13,420,000
JEFFERSON	20020	I-265	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT ON I-265 BOTH DIRECTION(S) FROM MILEPOINT 18.8 TO MILEPOINT 23.364	PL				
					DN	PM		460,000	
					RW				
					UT				
					CN	PM		4,600,000	
					Project Cost:		0	5,060,000	0
JEFFERSON	20023	KY-864	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL				
					DN	PM		325,000	
					RW				
					UT				
					CN	PM		3,250,000	
					Project Cost:		0	3,575,000	0
JEFFERSON	20026	KY-1065	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL				
					DN	PM		200,000	
					RW				
					UT				
					CN	PM		2,000,000	
					Project Cost:		0	2,200,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	20032	US-31	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL				
					DN	PM			75,000
					RW				
					UT				
					CN	PM			750,000
					Project Cost:		<u>0</u>	<u>0</u>	<u>825,000</u>
JEFFERSON	80000	KY-1531	NEW INTERCHANGE(O)	EASTWOOD FISHERSVILLE CONNECTOR TO I-64	PL	SPP	750,000		
					DN				
					RW				
					UT				
					CN				
					Project Cost:		<u>750,000</u>	<u>0</u>	<u>0</u>
JEFFERSON	80001	US-60	MAJOR WIDENING(O)	WIDEN US-60 TO 6 LANES FROM OLD SHELBYVILLE RD. TO NORTH ENGLISH STATION RD.	PL				
					DN	SPP		1,255,000	
					RW				
					UT				
					CN				
					Project Cost:		<u>0</u>	<u>1,255,000</u>	<u>0</u>
JEFFERSON	80003		AIR QUALITY(P)	EXTEND PLANTSIDE DRIVE FROM REHL ROAD TO TAYLORSVILLE ROAD	PL				
					DN	SPP			750,000
					RW				
					UT				
					CN				
					Project Cost:		<u>0</u>	<u>0</u>	<u>750,000</u>
JEFFERSON	80053	US-31E	SAFETY(P)	RECONSTRUCT EAST MARKET (US-31E) FROM FIRST ST TO JOHNSON ST TO IMPROVE PEDESTRIAN SAFETY AND ENHANCE ECONOMIC DEVELOPMENT	PL				
					DN				
					RW				
					UT				
					CN	STP		5,000,000	
					Project Cost:		<u>0</u>	<u>5,000,000</u>	<u>0</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JEFFERSON	80053.1	US-31E	SAFETY(P)	RECONSTRUCT EAST MARKET (US-31E) FROM FIRST ST TO JOHNSON ST TO IMPROVE PEDESTRIAN SAFETY AND ENHANCE ECONOMIC DEVELOPMENT	PL DN RW UT CN	STP			
					Project Cost:		0	0	5,000,000
Total for JEFFERSON county					PL		1,456,000	3,915,000	
					DN		9,431,000	8,090,000	4,360,000
					RW		13,647,333	2,150,000	3,080,000
					UT		4,259,000	11,641,000	4,080,000
					CN		36,910,182	87,614,745	84,313,854
					Total Amounts:		65,703,515	113,410,745	95,833,854
JESSAMINE	414.1	KY-1980	SAFETY(P)	IMPROVE ROADWAY GEOMETRICS, TYPICAL SECTION, AND ROADWAY HAZARDS ON KY 1980 (BRANNON RD) FROM US 68 (HARRODSBURG RD) TO US 27 (NICHOLASVILLE RD)(12CCR) - BEGIN RIGHT OF	PL DN RW UT CN	SPP			2,000,000
					Project Cost:		0	0	2,000,000
JESSAMINE	915	US-68	SAFETY(P)	IMPROVE INTERSECTION OF KY-29 NORTH OF WILMORE.(16CCR)	PL DN RW UT CN	STP STP		650,000	1,080,000
					Project Cost:		0	650,000	1,080,000
JESSAMINE	1136	KY-39	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER HICKMAN CREEK AT BLACK BRIDGE ON KY 39 1.3 MI N OF KY 1268. (057B00002N)(EBRP)	PL DN RW UT CN	BR BR		350,000	1,365,000
					Project Cost:		0	350,000	1,365,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JESSAMINE	1144	CR-1238	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON CR-1238 (0.88) OVER NS SYSTEM. 057R00605N	PL DN RW UT CN	BR		260,000	
					Project Cost:		0	260,000	805,000
JESSAMINE	8851	KY-169	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF RAILROAD BRIDGE ON KY 169 (NORTH 3RD STREET) BETWEEN MEADOWLARK LANE & ILHARDT AVENUE. (057R00603N)(14CCN)(16CCR)(SD)	PL DN RW UT CN	BR			1,500,000
					Project Cost:		0	0	1,500,000
JESSAMINE	10011	KY-1268	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1268 BRIDGE OVER HICKMAN CREEK. (057B00022N)	PL DN RW UT CN	BR		308,000	
					Project Cost:		0	308,000	1,232,000
Total for JESSAMINE county					PL DN RW UT CN			918,000	2,000,000
					Total Amounts:		0	1,568,000	5,982,000
JOHNSON	134.02	KY-172	RECONSTRUCTION(O)	FEDERAL HIGHWAY FUNDS DEDICATED TO RECONSTRUCT STONE COAL ROAD IN JOHNSON COUNTY. ("KYD" FUNDS NOT AVAILABLE FOR ADDITIONAL AMOUNT NEEDED TO COVER COST)	PL DN RW UT CN	KYD	203,005		
					Project Cost:		203,005	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
JOHNSON	1114	KY-40	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 40 OVER BRANCH OF LITTLE PAINT CREEK 0.38 MILE NE OF JOHNSON/MAGOFFIN COUNTY LINE 058B00012N	PL DN RW UT CN	BR	665,000		
Project Cost:							665,000	0	0
Total for JOHNSON county					PL DN RW UT CN		868,005		
Total Amounts:							868,005	0	0
KENTON	17.05	I-75	AM-BRIDGE (P)	KY 143 HPP EARMARK "ADDRESS DEFICIENCIES OF BRENT SPENCE BRIDGE, KENTON COUNTY, KENTUCKY". (2005HPP-KY143)(SEE 6-17.04 FOR ADDITIONAL 2005HPP FUNDING)(SD)	PL DN RW UT CN	HPP	1,439,840		
Project Cost:							1,439,840	0	0
KENTON	17.09	I-75	AM-BRIDGE (P)	BRENT SPENCE BRIDGE PROJECT (ADDITIONAL PROJECT FUNDS FOR MAINTENANCE, REPAIR AND PAINTING). (10CCR)(12CCR)(SD)	PL DN RW UT CN	BR		30,000,000	
Project Cost:							0	30,000,000	0
KENTON	162.2	KY-536	RECONSTRUCTION(O)	IMPROVE SAFETY AND REDUCE CONGESTION ON KY-536 FROM THE WEST END OF THE NS RAILROAD BRIDGE (B91) TO KY-1303 (PRIORITY SECTION 1). DESIGN PHASE UNDER PARENT NO. 6-162.01. (16CCN)	PL DN RW UT CN	STP STP		1,000,000	
Project Cost:							0	1,000,000	5,410,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
KENTON	162.3	KY-536	AIR QUALITY(P)	IMPROVE SAFETY AND REDUCE CONGESTION ON KY-536 FROM KY 1303 TO WILLIAMSWOOD ROAD/CALVARY DRIVE (PRIORITY SECTION 2). DESIGN PHASE UNDER PARENT NO. 6-162.01 (2012BOP)	PL DN RW UT CN	 SPP SPP 			3,000,000 1,500,000
Project Cost:							0	0	4,500,000
KENTON	419	CR-1316	MATCHED FED FUNDS(O)	PHASE I MULTI-USE PATH ALONG BROMLEY CRESCENT SPRINGS RD FROM ANDERSON ROAD TO AMSTERDAM ROAD. (2012BOP)	PL DN RW UT CN	 SNK SNK SNK	400,000 800,000	4,045,000	
Project Cost:							1,200,000	4,045,000	0
KENTON	419.01	CS-3806	MATCHED FED FUNDS(O)	PHASE 2 BROMLEY CRESCENT SPRINGS ROAD BETWEEN THE TWO SEGMENTS OF AMSTERDAM ROAD. RECONSTRUCT BROMLEY CRESCENT SPRINGS ROAD AND IMPROVE INTERSECTION WITH ST. JOHNS ROAD.	PL DN RW UT CN	 SNK SNK SNK SNK	269,600	504,000 560,000	276,000
Project Cost:							269,600	1,064,000	276,000
KENTON	428.1	CS-4128	RESURFACING(P)	RESURFACE & STABILIZE DUDLEY ROAD FROM WINDING TRAILS TO THOMAS MORE PARKWAY (PHASE 1). (2014BOPC)(MOA WITH CITY OF EDGEWOOD).	PL DN RW UT CN	 SNK	1,044,000		
Project Cost:							1,044,000	0	0
KENTON	428.2	CS-4128	RESURFACING(P)	RESURFACE & STABILIZE DUDLEY ROAD FROM THOMAS MORE PARKWAY TO CATHERINE DRIVE (PHASE 2). (2014BOPC)(MOA WITH CITY OF EDGEWOOD).	PL DN RW UT CN	 SNK	924,000		
Project Cost:							924,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
KENTON	428.3	CS-4128	RESURFACING(P)	DUDLEY ROAD PHASE 3. ROADWAY RESURFACING AND STABILIZATION. CONSTRUCT CONSISTENT 11' TRAVEL LANE IN EACH DIRECTION FROM CATHERINE DRIVE TO THE SUMMIT HILLS COUNTRY CLUB ENTRANCE.	PL DN RW UT CN	SNK	178,000		
						SNK		1,080,000	
				Project Cost:			178,000	1,080,000	0
KENTON	428.4	CS-4128	RESURFACING(P)	DUDLEY ROAD PHASE 4. ROADWAY RESURFACING AND STABILIZATION. CONSTRUCT CONSISTENT 11' TRAVEL LANE IN EACH DIRECTION FROM SUMMIT HILLS COUNTRY CLUB ENTRANCE TO DIXIE HIGHWAY.	PL DN RW UT CN	SNK		271,000	
						SNK			1,636,800
				Project Cost:			0	271,000	1,636,800
KENTON	430	CS-2023	RECONSTRUCTION(O)	WIDEN SIDEWALK FOR ADA COMPLIANCE AND ROADWAY RECONSTRUCTION ON JOHNSON ST & W RIVERCENTER BLVD FROM 3RD STREET TO THE EXISTING CONCRETE SECTION HEADING TOWARDS MADISON AVENUE IN COVINGTON.	PL DN RW UT CN	SNK	677,800		
				Project Cost:			677,800	0	0
KENTON	432	US-25	SAFETY(P)	CONSTRUCT LEFT TURN LANE ON NB APPROACH AT THE INTERSECTION OF US 25 AND BEECHWOOD RD JUST S OF I-75. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP) (2014BOP)	PL DN RW UT CN	SNK	100,000		
						SNK	250,000		
						SNK	1,600,000		
				Project Cost:			1,950,000	0	0
KENTON	435	-0	MATCHED FED FUNDS(O)	LUDLOW RIVERFRONT COMMONS TRAIL- CONSTRUCT A ONE-MILE MULTI-USE PATH ALONG THE OHIO RIVER FROM HOOPER STREET TO ASH STREET IN THE CITY OF LUDLOW (2016BOP).	PL DN RW UT CN	SNK	5,000		
						SNK	240,133		
				Project Cost:			245,133	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
KENTON	437	CS-6142	SAFETY(P)	IMPROVE SAFETY, TRAFFIC FLOW AND DRAINAGE ISSUES ALONG BUTTERMILK PIKE (CS 6142) FROM ROGERS ROAD TO COLLINS ROAD IN THE CITY OF VILLA HILLS. A DISTANCE OF 0.527 MILES (2016BOP).	PL DN RW UT CN	SNK	313,857		
Project Cost:							313,857	0	0
KENTON	438	CS-9004	RECONSTRUCTION(O)	RECONSTRUCT AMSTERDAM ROAD FROM GENERAL DRIVE TO REDWOOD DRIVE WITH CURB, GUTTER, STORM SEWERS AND SIDEWALK (2016BOP).	PL DN RW UT CN	SNK SNK SNK	56,000 32,000	2,080,000	
Project Cost:							88,000	2,080,000	0
KENTON	449	KY-17	CONGESTION MITIGTN(O)	IMPROVE SAFETY AND REDUCE CONGESTION ON KY-17 AT THE I-275 INTERCHANGE.	PL DN RW UT CN	STP STP STP		450,000	200,000 350,000
Project Cost:							0	450,000	550,000
KENTON	450	KY-1303	CONGESTION MITIGTN(O)	IMPROVE SAFETY AND REDUCE CONGESTION ALONG KY-1303 (TURKEYFOOT RD) FROM DUDLEY RD TO US-25 (DIXIE HWY).	PL DN RW UT CN	STP STP STP		1,500,000 2,000,000	1,000,000
Project Cost:							0	3,500,000	1,000,000
KENTON	454	CS-1560	RESURFACING(P)	ADELA AVENUE. CURB-LINE MILLING, ASPHALT RESURFACING, REPLACE SIDEWALK/CURBING AND NEW SIDEWALK AS NEEDED FROM KY 1072 (SLEEPY HOLLOW ROAD/DEVERILL STREET) TO KY 8 (ELM STREET).	PL DN RW UT CN	SNK SNK SNK	35,000 20,000	200,000	
Project Cost:							255,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
KENTON	455	CS-1045	DRAINAGE IMPROVE(P)	CODY ROAD. REPLACE CULVERT FOR BANKLICK CREEK. MILL AND OVERLAY WITH NEW ASPHALT FROM BANKLICK CREEK TO INDEPENDENCE STATION ROAD.	PL DN RW UT CN	SNK	57,000	120,000 346,000	0
Project Cost:							57,000	466,000	0
KENTON	456	-0	TRANSP ENHANCEMENT(P)	MADISON AVENUE. UNDERGROUND UTILITIES, STREET TREES, MAST ARM POLES, STREETLIGHTS, RESURFACING, SIGNAL IMPROVEMENTS FROM 11TH STREET TO 8TH STREET.	PL DN RW UT CN	SNK	280,000	240,000 1,650,000	0
Project Cost:							280,000	1,890,000	0
KENTON	457	CS-2217	TRANSP ENHANCEMENT(P)	7TH STREET. SIDEWALK REPLACEMENT, UNDERGROUND UTILITIES, STREET TREES, MAST ARM TRAFFIC SIGNALS, LIGHTING, RESURFACING FROM WASHINGTON STREET TO GREENUP STREET.	PL DN RW UT CN	SNK	280,000	240,000 2,450,000	0
Project Cost:							280,000	2,690,000	0
KENTON	1070	CS-2097	AM-BRIDGE (P)	WEST 15TH STREET; ADDRESS DEFICIENCIES OF BRIDGE AND APPROACHES OVER CSX RR IN COVINGTON. (059C00029N)(12CCR)(SD)	PL DN RW UT CN	BR	830,000 550,000 2,110,000		0
Project Cost:							3,490,000	0	0
KENTON	1075	KY-1120	AM-BRIDGE (P)	EVALUATE BRIDGE ON KY-1120 (MP 0.621) OVER CSX RAILROAD; 11TH ST E OF RUSSELL ST; 059B00083N	PL DN RW UT CN	BR	520,000		0
Project Cost:							520,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
KENTON	8307.1	KY-1501	RECONSTRUCTION(O)	IMPROVE HANDS PIKE (KY-1501) FROM KY-17 TO CRYSTAL LAKE DRIVE.(12CCR)(14CCR) (16CCR)	PL DN RW UT CN	SPP		8,010,000	
					Project Cost:		0	8,010,000	0
KENTON	8916		NEW ROUTE(O)	EXTEND HOUSTON ROAD TO CINEMA PROPERTY	PL DN RW UT CN	SPP		250,000	
					Project Cost:		0	250,000	0
KENTON	8951	US-25	REALIGNMENT	IMPROVE EXISTING ALIGNMENT WITH BUTTERMILK PIKE, ORPHANAGE ROAD, AND US 25. FT. MITCHELL WILL PAY \$50,000 TOWARD DESIGN.	PL DN RW UT CN	SPP		250,000	
					Project Cost:		0	250,000	0
KENTON	10005	KY-17	AM-BRIDGE (P)	ADDRESS DEFICIENCIES ON JOHN A. ROEBLING BRIDGE OVER OHIO RIVER. (059B00048N) (BSBP)	PL DN RW UT CN	BR		1,200,000	
					Project Cost:		0	1,200,000	0
KENTON	10006	US-25	AM-BRIDGE (P)	JOINT REPLACEMENT AND PREVENTIVE MAINTENANCE ON CLAY WADE BAILEY BRIDGE OVER THE OHIO RIVER. JOINT PROJECT WITH OHIO. (059B00049N)	PL DN RW UT CN	BR	350,000		
					Project Cost:		350,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
KENTON	10011	KY-177	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 177 BRIDGE OVER BOWMAN CREEK. (059B00011N)	PL DN RW UT CN	BR		420,000	
					Project Cost:		0	420,000	2,695,000
KENTON	10012	KY-2045	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 2045 BRIDGE OVER BRUSHY CREEK. (059B00025N)	PL DN RW UT CN	BR		350,000	
					Project Cost:		0	350,000	3,605,000
KENTON	20033	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 NON-CARDINAL DIRECTION(S) FROM MILEPOINT 190.68 TO MILEPOINT 191.22	PL DN RW UT CN	PM		30,000	
					Project Cost:		0	330,000	0
KENTON	20035	I-275	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION ON PCC PAVEMENT ON I-275 BOTH DIRECTION(S) FROM MILEPOINT 0 TO MILEPOINT 1.582 (1.05 NON-CARDINAL)	PL DN RW UT CN	PM		1,420,000	
					Project Cost:		0	15,620,000	0
KENTON	20039	I-275	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION ON PCC PAVEMENT ON I-275 BOTH DIRECTION(S) FROM MILEPOINT 82.475 TO MILEPOINT 83.78	PL DN RW UT CN	PM		200,000	
					Project Cost:		0	2,200,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
KENTON	80002	KY 236	AIR QUALITY(P)	RECONSTRUCT KY 236 (STEVENSON ROAD) FROM ALICE STREET TO JACQUELINE DRIVE	PL DN RW UT CN	SPP SPP		800,000	1,000,000
Project Cost:							0	800,000	1,000,000
Total for KENTON county					PL DN RW UT CN		1,104,600 1,406,000 1,632,000 9,419,630	5,941,000 2,504,000 2,160,000 67,361,000	4,200,000 2,850,000 13,622,800
Total Amounts:							13,562,230	77,966,000	20,672,800
KNOTT	1116	CR-1008	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON FISHTRAP RD (KY 1441) OVER RACCOON CREEK AT INTERSECTION WITH COON CREEK (CR 1371) (060C00006N)	PL DN RW UT CN	BR	420,000		
Project Cost:							420,000	0	0
KNOTT	1124	CS-1016	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER RIGHT FORK TROUBLESOME CREEK ON FIELDWOOD DRIVE (CS1016) IN HINDMAN (060C00060N)	PL DN RW UT CN	BR BR		210,000	455,000
Project Cost:							0	210,000	455,000
KNOTT	8904	KY-3209	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER BALLS FORK ON KY 3209. (16CCN) 060B00053N	PL DN RW UT CN	BR	700,000		
Project Cost:							700,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
KNOTT	10001	KY-1098	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1098 BRIDGE OVER LAUREL FK OF QUICKSAND C. (060B00035N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			680,000
					Project Cost:		0	175,000	680,000
KNOTT	10002	CR-1130	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF COLLINS BRANCH RD BRIDGE OVER CARR FORK. (060C00029N)	PL				
					DN	BR		157,500	
					RW				
					UT				
					CN	BR			398,650
					Project Cost:		0	157,500	398,650
KNOTT	10015	CR-1565	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF FRANKIE JANE DR BRIDGE OVER CANEY CREEK. (060C00071N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			337,890
					Project Cost:		0	175,000	337,890
Total for KNOTT county					PL				
					DN			717,500	
					RW				
					UT				
					CN		1,120,000		1,871,540
					Total Amounts:		1,120,000	717,500	1,871,540
KNOX	188	US-25	MAJOR WIDENING(O)	IMPROVE SAFETY AND ACCESS MANAGEMENT, AND REDUCE CONGESTION ON US-25E FROM CORBIN BYPASS TO KNOX/LAUREL COUNTY LINE.(12CCR)	PL				
					DN				
					RW				
					UT				
					CN	NH			2,300,000
					Project Cost:		0	0	2,300,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
KNOX	1102	CR-1325	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON OLD HWY 25 (CR 1325) JUST WEST OF US 25E. 061C00063N	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	350,000
KNOX	10021	CR-1353	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF SPIDER CREEK RD BRIDGE OVER EAST FORK LYNN CAMP CREEK. (061C00048N)	PL DN RW UT CN	BR		192,500	
					Project Cost:		0	192,500	469,000
KNOX	10022	CR-1162	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF DETHERAGE CEMETERY BRIDGE OVER BRUSH CREEK. (061C00056N)	PL DN RW UT CN	BR		157,500	
					Project Cost:		0	157,500	367,500
KNOX	10023	CR-1065	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BURTON BRANCH RD BRIDGE OVER BURTON BRANCH. (061C00086N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	360,000
KNOX	20007	KY-6	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM			30,000
					Project Cost:		0	0	300,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
KNOX	20008	US-25	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL				
					DN	PM		125,000	
					RW				
					UT				
					CN	PM		1,250,000	
				Project Cost:			<u>0</u>	<u>1,375,000</u>	<u>0</u>
KNOX	80000	US 25E	AIR QUALITY(P)	US 25E VARIOUS TURNING LANES. CROSSOVER AND TURNING LANE AT THE PALLET STORE. LEFT TURNING LANE AT THE SAWMILL AT THE KNOX/BELL COUNTY LINE. RIGHT TURNING LANE AT DOLLAR GENERAL.	PL				
					DN	SPP		30,000	
					RW				
					UT				
					CN	SPP		270,000	
				Project Cost:			<u>0</u>	<u>300,000</u>	<u>0</u>
KNOX	80009	US 25E	AIR QUALITY(P)	CONDUCT A TRAFFIC SAFETY STUDY ON US 25E AT HEIDRICK, KY IN KNOX COUNTY	PL	SPP		50,000	
					DN				
					RW				
					UT				
					CN				
				Project Cost:			<u>0</u>	<u>50,000</u>	<u>0</u>
Total for KNOX county					PL			50,000	
					DN			855,000	30,000
					RW				
					UT				
					CN			1,520,000	4,146,500
					Total Amounts:		<u>0</u>	<u>2,425,000</u>	<u>4,176,500</u>
LARUE	8909	KY-222	CONGESTION MITIGTN(O)	CONNECTOR IMPROVEMENTS HODGENVILLE TO I-65	PL				
					DN	SPP		125,000	
					RW	SPP		50,000	
					UT	SPP			100,000
					CN	SPP			400,000
				Project Cost:			<u>0</u>	<u>175,000</u>	<u>500,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LARUE	8911	KY-84	SPOT IMPROVEMENTS(O)	SPOT IMPROVEMENTS ON KY 84 FROM HODGENVILLE TO I-65.	PL				
					DN	PM			50,000
					RW				
					UT				
					CN	PM			450,000
					Project Cost:		<u>0</u>	<u>0</u>	<u>500,000</u>
LARUE	10002	KY-61	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-61 BRIDGE OVER SOUTH FORK BRANCH. (062B00008N)	PL				
					DN	BR		87,500	
					RW				
					UT				
					CN	BR			605,500
					Project Cost:		<u>0</u>	<u>87,500</u>	<u>605,500</u>
Total for LARUE county					PL				
					DN			212,500	50,000
					RW			50,000	
					UT				100,000
					CN				1,455,500
					Total Amounts:		<u>0</u>	<u>262,500</u>	<u>1,605,500</u>
LAUREL	9.1	I-75	MAJOR WIDENING(O)	IMPROVE I-75 FROM US-25E TO THE LITTLE LAUREL RIVER (16CCR)	PL				
					DN				
					RW	NH		70,000	
					UT	NH		50,000	
					CN	NH			10,000,000
					Project Cost:		<u>0</u>	<u>120,000</u>	<u>10,000,000</u>
LAUREL	147.1	KY-363	MAJOR WIDENING(O)	ADDRESS SAFETY, CAPACITY, AND ACCESS MANAGEMENT ON KY-363 FROM KY-1006 TO KY-192. (06CCR)(2006BOPC).(10CCR)(14CCR)	PL				
					DN				
					RW				
					UT				
					CN	SPP	3,000,000		
					Project Cost:		<u>3,000,000</u>	<u>0</u>	<u>0</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LAUREL	185	US-25	MAJOR WIDENING(O)	IMPROVE SAFETY, IMPROVE ACCESS MANAGEMENT, AND REDUCE CONGESTION ON US-25E FROM THE KNOX/LAUREL COUNTY LINE TO KY-770 (12CCR)(16CCR)	PL DN RW UT CN	NH			4,580,000
Project Cost:							0	0	4,580,000
LAUREL	187	KY-192	MAJOR WIDENING(O)	IMPROVE SAFETY, ACCESS MANAGEMENT, AND FREIGHT MOBILITY; AND REDUCE CONGESTION ON KY-192 NEAR KY-1006 TO US-25 IN LONDON. (12CCR)	PL DN RW UT CN	SPP SPP	1,000,000 2,500,000		
Project Cost:							3,500,000	0	0
LAUREL	1094	CR-1341	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON DOG BRANCH SCHOOL RD (CR 1341) OVER SINKING CREEK 0.56 MILE NW OF SINKING CREEK RD (FD 781) 063C00025N	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	770,000
LAUREL	1096	KY-312	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER CRAIG CREEK ON KY 312 1.8 MILE SE OF KY 192. (063B00053N)(14CCR)(SD)	PL DN RW UT CN	BR	1,200,000		
Project Cost:							1,200,000	0	0
LAUREL	1105.01	I-75	AM-BRIDGE (P)	REHAB BRIDGE ON I-75 AT MILEPOST 30.5 OVER LAUREL RIVER (SR 34.1) (B00043R AND B00043L)(SD)	PL DN RW UT CN	BR	2,800,000		
Project Cost:							2,800,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LAUREL	8515	US-25	DESIGN ENGINEERING(O)	IMPROVE CONNECTIVITY BETWEEN CORBIN AND LONDON FROM KY-1006 TO US-25E. (08CCN)	PL DN RW UT CN	STP			500,000
Project Cost:							0	0	500,000
LAUREL	8811	CR-1221	BRIDGE REPLACEMENT(P)	REPLACE BRIDGE LOCATED ON LILY ROAD (CR 1221) (MP 1.045) (AREA ADJACENT TO FARISTON INDUSTRIAL PARK WITH NEW ROADWAY ALIGNMENT). (14CCN)	PL DN RW UT CN	SPP		1,343,900	
Project Cost:							0	1,343,900	0
LAUREL	10024	KY-1223	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1223 BRIDGE OVER HORSE CREEK. (063B00007N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	378,000
LAUREL	10025	KY-80	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-80 BRIDGE OVER LICK FORK CREEK. (063B00013N)	PL DN RW UT CN	BR		210,000	
Project Cost:							0	210,000	525,000
LAUREL	10026	KY-80	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-80 BRIDGE OVER HOOPPOLE CREEK. (063B00017N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	507,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LAUREL	10042	KY-490	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 490 BRIDGE OVER ROCKCASTLE RIVER. (063B00004N)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			2,492,000
				Project Cost:			0	245,000	2,492,000
LAUREL	10043	KY-638	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 638 BRIDGE OVER BIG RACCOON CREEK. (063B00061N)	PL				
					DN	BR		192,500	
					RW				
					UT				
					CN	BR			829,500
				Project Cost:			0	192,500	829,500
LAUREL	20009	HR-9006	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF HAL ROGERS DANIEL BOONE PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 0 TO MILEPOINT 3.877	PL				
					DN	PM		310,000	
					RW				
					UT				
					CN	PM		3,100,000	
				Project Cost:			0	3,410,000	0
LAUREL	20011	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION ON PCC PAVEMENT ON I-075 CARDINAL DIRECTION(S) FROM MILEPOINT 32.485 TO MILEPOINT 32.9	PL				
					DN	PM		120,000	
					RW				
					UT				
					CN	PM		1,200,000	
				Project Cost:			0	1,320,000	0
LAUREL	20013	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 50.524 (49.87 NON-CARDINAL) TO MILEPOINT 50.714	PL				
					DN	PM		100,000	
					RW				
					UT				
					CN	PM		1,000,000	
				Project Cost:			0	1,100,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for LAUREL county					PL				500,000
					DN			1,702,500	
					RW		1,000,000	70,000	
					UT		2,500,000	50,000	
					CN		7,000,000	6,643,900	20,082,000
					Total Amounts:		10,500,000	8,466,400	20,582,000
LAWRENCE	196.1	KY-2565	RECONSTRUCTION(O)	RECONSTRUCT KY 2565 FROM APPROX. 550' NW OF CR 1529/KY2565/KY2563 INTERSECTION TO APPROX. 1150' SE OF THE INTERSECTION (SECTION 2). (2014BOP)	PL				
					DN				
					RW				
					UT				
					CN	SPP	790,000		
					Project Cost:		790,000	0	0
LAWRENCE	8951	CR-1044	SPOT IMPROVEMENTS(O)	SPOT IMPROVEMENTS ON SPANKEM BRANCH ROAD (CR 1044).	PL				
					DN				
					RW				
					UT				
					CN	SPP		500,000	
					Project Cost:		0	500,000	0
LAWRENCE	10003	CR-1234	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF MAXIE BRANCH RD BRIDGE OVER RT FORK-BLAINE CREEK. (064C00076N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			478,000
					Project Cost:		0	140,000	478,000
LAWRENCE	10016	KY-644	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 644 BRIDGE OVER LEVISA FORK OF BIG SANDY. (064B00038N)	PL				
					DN	BR		560,000	
					RW				
					UT				
					CN	BR			2,880,500
					Project Cost:		0	560,000	2,880,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
Total for LAWRENCE county					PL				
					DN			700,000	
					RW				
					UT				
					CN		790,000	500,000	3,358,500
					Total Amounts:		790,000	1,200,000	3,358,500
LEE	10013	CR-1124	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF GOOSE CREEK RD BRIDGE OVER CSX RAILROAD. (065R00604N)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			770,000
					Project Cost:		0	245,000	770,000
Total for LEE county					PL				
					DN			245,000	
					RW				
					UT				
					CN				770,000
					Total Amounts:		0	245,000	770,000
LESLIE	1078	US-421	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE AND APPROACHES ON US-421 OVER STINNET CREEK 0.028 MILE SOUTH OF KY-406 NEAR STINNETT(10CCR)(066B00008N)	PL				
					DN				
					RW				
					UT				
					CN	BR		2,128,000	
					Project Cost:		0	2,128,000	0
LESLIE	1095	US-421	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER MUNCY CREEK ON US 421 0.5 MILE SOUTH OF TAYLOR MORGAN ROAD (CR 1090). (066B00006N)	PL				
					DN				
					RW				
					UT				
					CN	BR			612,500
					Project Cost:		0	0	612,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LESLIE	1100	CR-1528	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER WOLF CREEK ON COON CREEK ROAD (CR 1528) AT JCT WITH KY 3427 (066C00039N) (EBRP)	PL DN RW UT CN	BR		123,000	
					Project Cost:		0	123,000	445,000
LESLIE	1104	CR-1219	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON MILE BRANCH RD (CR 1219) (MP 0.022) OVER BEECH FORK. 066C00048N	PL DN RW UT CN	BR		245,000	
					Project Cost:		0	245,000	613,000
LESLIE	1106	CR-1207	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON WILLIAMS BRANCH RD (CR-1207) (0.028) OVER MIDDLE FORK KENTUCKY RIVER. 066C00020N	PL DN RW UT CN	BR		245,000	
					Project Cost:		0	245,000	560,000
LESLIE	10027	KY-1780	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1780 BRIDGE OVER BEECH FORK. (066B00027N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	857,500
LESLIE	10028	KY-699	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-699 BRIDGE OVER MAGGARDS BRANCH. (066B00031N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	525,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LESLIE	10030	CR-1006	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CR-1006 BRIDGE OVER RACCOON CREEK. (066C00002N)	PL DN RW UT CN	BR		192,500	
Project Cost:							0	192,500	451,500
LESLIE	10031	CR-1271	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CR-1271 BRIDGE OVER MIDDLE FK KENTUCKY RVR. (066C00023N)	PL DN RW UT CN	BR		210,000	
Project Cost:							0	210,000	525,000
Total for LESLIE county					PL DN RW UT CN			1,400,500	
Total Amounts:							0	3,528,500	4,589,500
LETCHER	199.11	US-119	RECONSTRUCTION(O)	IMPROVE US-119 FROM NORTH OF KY-15 TO THE KY 2034/COUGAR DRIVE INTERSECTION. (16CCN)(SEE 12-199.10 FOR D, R, U)	PL DN RW UT CN	NH	1,000,000		
Project Cost:							1,000,000	0	0
LETCHER	1113	KY-2034	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 2034C OVER N FORK KY RIVER 0.02 E OF US 119 067B00121N	PL DN RW UT CN	BR	973,000		
Project Cost:							973,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LETCHER	1120	KY-3404	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER POOR FORK OF CUMBERLAND RIVER ON KY 3404 100 FT SOUTH OF US 119. (067B00114N)	PL				
					DN				
					RW				
					UT				
					CN	BR			420,000
					Project Cost:		0	0	420,000
LETCHER	1125	CR-1226	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON HAMPTON BRANCH (CR 1226) (MP 0.01) OVER COWAN CREEK. 067C00021N	PL				
					DN				
					RW				
					UT				
					CN	BR			385,000
					Project Cost:		0	0	385,000
LETCHER	1126	CR-1225	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON CR-1225 (0.034) OVER COWAN CREEK. 067C00020N	PL				
					DN	BR		420,000	
					RW				
					UT				
					CN	BR			385,000
					Project Cost:		0	420,000	385,000
LETCHER	10004	KY-805	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-805 BRIDGE OVER POTTERS FORK. (067B00022N)	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR			616,840
					Project Cost:		0	210,000	616,840
LETCHER	10005	KY-2034	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-2034 BRIDGE OVER CRAFTS COLLY CREEK. (067B00069N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			406,105
					Project Cost:		0	140,000	406,105

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LETCHER	10006	CR-1433	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CORNFIELD DR BRIDGE OVER BOONE FORK. (067C00004N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			427,840
				Project Cost:			0	140,000	427,840
LETCHER	10007	CR-1386	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF TURKEY CRK BRIDGE OVER TURKEY CREEK. (067C00050N) (SD)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			697,000
				Project Cost:			0	175,000	697,000
LETCHER	10017	KY-7	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 7 BRIDGE OVER CSX RR & N FK KY RIVER. (067B00038N)	PL				
					DN	BR		525,000	
					RW				
					UT				
					CN	BR			4,900,000
				Project Cost:			0	525,000	4,900,000
LETCHER	10018	KY-343	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 343 BRIDGE OVER WRIGHT FORK. (067B00078N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			378,560
				Project Cost:			0	175,000	378,560
LETCHER	10019	CS-3000	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF E POTTER RD BRIDGE OVER YONTS FORK. (067C00007N)	PL				
					DN	BR		157,500	
					RW				
					UT				
					CN	BR			372,400
				Project Cost:			0	157,500	372,400

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LETCHER	10020	CR-1149	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF HOLBROOK TOWN BRIDGE OVER N.FK.KENTUCKY RVR. (067C00017N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	516,810
LETCHER	10021	CR-1799	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF PARADISE LN BRIDGE OVER KINGDOM COME CREEK. (067C00051N)	PL DN RW UT CN	BR		140,000	
					Project Cost:		0	140,000	269,500
LETCHER	10022	CR-1737	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF ORCHARD RD BRIDGE OVER NORTH FORK KY RIVER. (067C00065N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	655,900
Total for LETCHER county					PL DN RW UT CN		1,973,000	2,502,500	10,430,955
					Total Amounts:		1,973,000	2,502,500	10,430,955
LEWIS	1090	KY-1068	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER LAUREL FORK ON KY 1068 30 FT S OF DEEP HOLE BRANCH ROAD (CR 1125).(068B00057N) (16CCR)(SD)	PL DN RW UT CN	BR	75,000		
					Project Cost:		150,000	900,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LEWIS	8507	KY-57	AM-BRIDGE (P)	CONSTRUCT A NEW BRIDGE CROSSING THE NORTH FORK OF THE LICKING RIVER AT THE LEWIS-FLEMING COUNTY LINE. (08CCN): (068B00027N)	PL DN RW UT CN	BR		3,640,000	
Project Cost:							0	3,640,000	0
LEWIS	10010	KY-344	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-344 BRIDGE OVER GRASSY BRANCH. (068B00015N)	PL DN RW UT CN	BR		350,000	
Project Cost:							0	350,000	1,540,000
LEWIS	10023	KY-1021	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1021 BRIDGE OVER BRIERY CREEK. (068B00075N)	PL DN RW UT CN	BR		315,000	
Project Cost:							0	315,000	857,500
Total for LEWIS county					PL DN RW UT CN			665,000	
Total Amounts:							150,000	5,205,000	2,397,500
LINCOLN	196	US-27	MAJOR WIDENING(O)	IMPROVE US-27 FROM KY-590 TO BELL STREET IN STANFORD. (INCLUDES NEW GOSHEN CUT-OFF ROAD)(2005HPP-KY115)	PL DN RW UT CN	NH		1,400,000	
Project Cost:							0	2,500,000	3,250,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LINCOLN	1055	KY-1247	AM-BRIDGE (P)	REPLACE BRIDGE ON KY 1247 OVER ST. ASAPH CREEK 0.044 S OF KY 78(SR 45.4) 069B00055N	PL DN RW UT CN	BR	567,000		
Project Cost:							567,000	0	0
LINCOLN	1066	CR-1043	AM-BRIDGE (P)	REPLACE BRIDGE ON CR-1043 (0.643) OVER LOGAN CREEK. (SR=20.2) 069C00008N	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	497,000
LINCOLN	80000	US 127	NEW INTERCHANGE(O)	NEW TURNING LANE AT ARCADIA VIEW DRIVE	PL DN RW UT CN	SPP		100,000 50,000 50,000 800,000	
Project Cost:							0	1,000,000	0
LINCOLN	80001	US 150	NEW INTERCHANGE(O)	US 150 NEW TURNING LANE NEAR HOBBLE ROAD AND CRAWFORD LANE	PL DN RW UT CN	SPP	100,000 50,000 350,000		
Project Cost:							500,000	0	0
LINCOLN	80002	US 127	NEW INTERCHANGE(O)	US 127 NEW TURNING LANE AT KY 1194	PL DN RW UT CN	SPP		100,000 50,000 50,000 800,000	
Project Cost:							0	1,000,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LINCOLN	80008	US 150	AIR QUALITY(P)	ADD A TURNING LANE ON US 150 AT WILDERNESS TRAIL ROAD	PL				
					DN	SPP		100,000	
					RW				
					UT	SPP		50,000	
					CN	SPP		350,000	
					Project Cost:		<u>0</u>	<u>500,000</u>	<u>0</u>
Total for LINCOLN county					PL				
					DN		100,000	475,000	
					RW			1,500,000	
					UT		50,000	1,250,000	
					CN		917,000	1,950,000	3,747,000
					Total Amounts:		<u>1,067,000</u>	<u>5,175,000</u>	<u>3,747,000</u>
LIVINGSTON	1142	US-60	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON US 60 OVER THE CUMBERLAND RIVER 0.27 MILE N OF KY 70 070B00017N.	PL				
					DN				
					RW				
					UT				
					CN	BR		16,000,000	
					Project Cost:		<u>0</u>	<u>16,000,000</u>	<u>0</u>
LIVINGSTON	1142.01	US-60	PREFINANCD CONVRSN(O)	ADDRESS DEFICIENCIES OF BRIDGE ON US 60 OVER THE CUMBERLAND RIVER 0.27 MILE N OF KY 70 (SR 32.7) 070B00017N (ADDITIONAL FUNDING FOR C PHASE)	PL				
					DN				
					RW				
					UT				
					CN	BR			16,000,000
					Project Cost:		<u>0</u>	<u>0</u>	<u>16,000,000</u>
Total for LIVINGSTON county					PL				
					DN				
					RW				
					UT				
					CN			16,000,000	16,000,000
					Total Amounts:		<u>0</u>	<u>16,000,000</u>	<u>16,000,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
LOGAN	10010	US-79	AM-BRIDGE (P)	IMPROVE SAFETY AND BRIDGE CONDITION ON WHIPPORWILL CREEK BRIDGE NEAR KY-1151. BRIDGE ID 071B00025 (SD)	PL DN RW UT CN	BR		250,000	
					Project Cost:		0	250,000	1,715,000
Total for LOGAN county					PL DN RW UT CN			250,000	
					Total Amounts:		0	250,000	1,715,000
LYON	187.5	US-641	RELOCATION(O)	RELOCATE US-641 FROM US-62 NEAR EDDYVILLE TO SOUTH OF THE LYON/CALDWELL COUNTY LINE.	PL DN RW UT CN	NH		2,500,000	
					Project Cost:		0	2,500,000	2,000,000
									500,000
LYON	187.6	US-641	RELOCATION(O)	RELOCATE US-641 FROM SOUTH OF THE LYON/CALDWELL COUNTY LINE TO FREDONIA, 4.5 MILES.	PL DN RW UT CN	NH		1,800,000	
					Project Cost:		0	1,800,000	2,000,000
									800,000
LYON	20009	I-24	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-024 CARDINAL DIRECTION(S) FROM MILEPOINT 45.133 TO MILEPOINT 51.886	PL DN RW UT CN	PM			270,000
					Project Cost:		0	0	2,700,000
									2,970,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for LYON county					PL				
					DN			4,300,000	270,000
					RW				4,000,000
					UT				1,300,000
					CN				2,700,000
				Total Amounts:			<u>0</u>	<u>4,300,000</u>	<u>8,270,000</u>
MADISON	192.2	-0	NEW ROUTE(O)	CONSTRUCT 4-LANE BERE A BYPASS SECTION	PL				
				2; FROM 150' EAST OF US-25, SE TO KY-21.	DN				
				(2004BOPC)(08CCR)(12CCR) PHASE 1 - BERE A	RW				
				BYPASS FROM US-25 TO KY-1016.	UT				
					CN	SPP		12,000,000	
				Project Cost:			<u>0</u>	<u>12,000,000</u>	<u>0</u>
MADISON	235	KY-52	RECONSTRUCTION(O)	IMPROVE KY-52 FROM WALLACE MILL ROAD TO	PL				
				INTERSTATE 75 AT THE DUNCANNON ROAD	DN				
				INTERCHANGE. (02CCR)(12CCN)(14CCR)	RW	SPP		4,000,000	
				(DESIGN/BUILD)(16CCR)	UT	SPP			4,000,000
					CN	SPP			4,000,000
				Project Cost:			<u>0</u>	<u>4,000,000</u>	<u>8,000,000</u>
MADISON	236	KY-595	SCOPING STUDY(O)	COMPREHENSIVE TRAFFIC STUDY FOR	PL				
				INTERSECTION OF MAIN STREET AND BERE A	DN				
				COLLEGE CAMPUS, BERE A. (2005HPP-KY112)	RW				
				(MOA WITH BERE A). (16CCR)(LET BY CITY)	UT				
					CN	HPP	266,952		
				Project Cost:			<u>266,952</u>	<u>0</u>	<u>0</u>
MADISON	251.01	US-25	MAJOR WIDENING(O)	WIDEN US-25 FROM US-421 NORTH TO KY-876.	PL				
				STATE TO PROVIDE DESIGN AND PLANS, AND	DN				
				FUNDS FOR THIS PROJECT ARE REQUESTED TO	RW				
				BE PAID TO THE MADISON COUNTY FISCAL	UT				
				COURT, WHICH SHALL COORDINATE THE	CN	HPP	719,921		
				Project Cost:			<u>719,921</u>	<u>0</u>	<u>0</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MADISON	1130	US-421	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON BATTLEFIELD MEMORIAL HWY (US 421) OVER COWBELL CREEK AT JCT WITH HIGHWAY 21 E (KY 21)076B00021	PL DN RW UT CN	 BR BR BR	 90,000 90,000 625,000		
Project Cost:							805,000	0	0
MADISON	1131	CR-1158	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON OLD HAYS FORK LN (CR 1158) OVER BRANCH OF HAYS FORK 0.2 MILE SE OF BATTLEFIELD MEMORIAL HWY (US 421) 076C00023N	PL DN RW UT CN	 BR		336,000	
Project Cost:							0	336,000	0
MADISON	1137	KY-3376	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER TERRILL BRANCH ROAD ON KY 3376 IN BERE 200 FT N OF PEACHTREE DRIVE (CS 2072). (076B00085N)	PL DN RW UT CN	 BR BR		210,000	
Project Cost:							0	210,000	857,500
MADISON	1142	CR-1017	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON CR-1017 (3.405) OVER MUDDY CREEK. 076C00004N (SD)	PL DN RW UT CN	 BR BR		190,000	
Project Cost:							0	190,000	420,000
MADISON	1143	CR-1044	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON CR-1044 (0.007) OVER BR OF MUDDY CREEK. 076C00066N	PL DN RW UT CN	 BR BR		210,000	
Project Cost:							0	210,000	455,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MADISON	8403	KY-627	MAJOR WIDENING(O)	IMPROVE SAFETY AND REDUCE CONGESTION AT THE KY-627 BRIDGE OVER I-75. (INCLUDES 7-8400) (B40)(08CCN)(10CCR)(14CCR)(16CCR)	PL DN RW UT CN	NH	5,000,000		
Project Cost:							5,000,000	0	0
MADISON	8403.01	KY-627	PREFINANCD CONVRSN(O)	IMPROVE SAFETY AND REDUCE CONGESTION AT THE KY-627 BRIDGE OVER I-75. (INCLUDES 7-8400) (B40)(08CCN)(10CCR)(14CCR)(16CCR)	PL DN RW UT CN	NH		5,000,000	
Project Cost:							0	5,000,000	0
MADISON	8505	US-25	SAFETY(P)	IMPROVE ROADWAY, SIDEWALKS, AND BIKE PATHS ON US-25 BETWEEN ELLIPSE STREET TO GLADES ROAD AND THEN CONTINUES ON TO THE BEREA BYPASS. (08CCN)(10CCR)(12CCR) (LET BY KYTC)	PL DN RW UT CN	SPP	7,200,000		
Project Cost:							7,200,000	0	0
MADISON	8853	KY-2881	SPOT IMPROVEMENTS(O)	PROPOSED ROADWAY IMPROVEMENTS FROM DUNCANNON RD TO THE MADISON CO AIRPORT TO INCLUDE CALEAST RD (KY 2881 MP.783-MP 2.780), JOHN BALLARD RD (KY 2877 MP 0-MP.806 & CR 1236 MP0-MP.429) FROM	PL DN RW UT CN	SPP SPP		1,000,000	500,000
Project Cost:							0	1,000,000	500,000
MADISON	10001	KY-1984	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1984 BRIDGE OVER TATES CREEK. (076B00071N)	PL DN RW UT CN	BR BR		210,000	665,000
Project Cost:							0	210,000	665,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MADISON	10002	CR-1056	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF PEACOCK ROAD BRIDGE OVER E. FK. OTTER CREEK. (076C00011N)	PL DN RW UT CN	BR		210,000	
Project Cost:							<u>0</u>	<u>210,000</u>	<u>665,000</u>
Total for MADISON county					PL DN RW UT CN			2,030,000	
							90,000	4,000,000	500,000
							90,000		4,000,000
							13,811,873	17,336,000	7,062,500
Total Amounts:							<u>13,991,873</u>	<u>23,366,000</u>	<u>11,562,500</u>
MAGOFFIN	126.4	KY-9009	MAJOR WIDENING(O)	MOUNTAIN PARKWAY CORRIDOR: WIDEN THE MOUNTAIN PARKWAY TO 4 LANES FROM 0.3MI W OF KY 3047 (65.0) TO 0.7 MI W OF MIDDLE FORK LICKING RIVER BRIDGE (69.6). (2012BOP) (14CCR)(16CCR)	PL DN RW UT CN	NH		15,000,000	
Project Cost:							<u>0</u>	<u>15,000,000</u>	<u>0</u>
MAGOFFIN	126.41	KY-9009	PREFINANCD CONVRSN(O)	MOUNTAIN PARKWAY CORRIDOR: WIDEN THE MOUNTAIN PARKWAY TO 4 LANES FROM 0.3MI W OF KY 3047 (65.0) TO 0.7 MI W OF MIDDLE FORK LICKING RIVER BRIDGE (69.6). (2012BOP) (14CCR)(16CCN)	PL DN RW UT CN	NH			10,000,000
Project Cost:							<u>0</u>	<u>0</u>	<u>10,000,000</u>
MAGOFFIN	10002	KY-1635	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1635 BRIDGE OVER OAKLEY CREEK. (077B00029N)	PL DN RW UT CN	BR		140,000	
Project Cost:							<u>0</u>	<u>140,000</u>	<u>595,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MAGOFFIN	10003	KY-30	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-30 BRIDGE OVER LICKING RIVER. (077B00059N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	945,000
MAGOFFIN	10014	KY-3049	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 3049 BRIDGE OVER JOHNSON CREEK. (077B00069N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	402,500
MAGOFFIN	10015	CR-1032	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF WHITE BRANCH BRIDGE OVER STATE ROAD FORK. (077C00036N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	437,500
MAGOFFIN	20000	KY-9009	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF BERT T. COMBS MOUNTAIN PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 63.123 TO MILEPOINT 69.98	PL DN RW UT CN	PM			400,000
					Project Cost:		0	0	4,000,000
Total for MAGOFFIN county					PL DN RW UT CN			665,000	400,000
					Total Amounts:		0	15,000,000	16,380,000
								15,665,000	16,780,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MARION	8802	KY-49	SPOT IMPROVEMENTS(O)	SPOT IMPROVEMENTS ON KY-49 (MP 20.900 TO MP 21.830) AS PER THE KY-49 PLANNING STUDY. (14CCN)	PL DN RW UT CN	SPP			800,000
Project Cost:							0	0	800,000
MARION	8803	KY-49	SPOT IMPROVEMENTS(O)	IMPROVE SAFETY, MOBILITY AND GEOMETRICS ON KY-49 NEAR SOUTHERN KY-52 INTERSECTION. (14CCN)	PL DN RW UT CN	SPP			3,300,000
Project Cost:							0	0	3,300,000
MARION	8914	KY-84	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 84 OVER HARDINS CREEK. (16CCN)(078B00025N)	PL DN RW UT CN	BR	94,500		
Project Cost:							94,500	616,000	0
MARION	8916	KY-55	RECONSTRUCTION(O)	HEARTLAND PARKWAY: IMPROVE MOBILITY FROM THE LEBANON BYPASS TO BOOKER ROAD (CR 1214) NEAR SPRINGFIELD. (16CCN)	PL DN RW UT CN	NH		350,000	
Project Cost:							0	700,000	0
MARION	10003	CR-1127	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF WHITE OAK CRK RD BRIDGE OVER WHITE OAK CREEK. (078C00035N)	PL DN RW UT CN	BR		98,000	
Project Cost:							0	98,000	217,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for MARION county					PL				
					DN		94,500	98,000	
					RW			350,000	800,000
					UT			350,000	
					CN			616,000	3,517,000
					Total Amounts:		94,500	1,414,000	4,317,000
MARSHALL					PL				
					DN	BR		250,000	
					RW				
					UT				
					CN				
					Project Cost:		0	250,000	0
MARSHALL					PL				
					DN	PM		75,000	
					RW				
					UT				
					CN	PM		750,000	
					Project Cost:		0	825,000	0
Total for MARSHALL county					PL				
					DN			325,000	
					RW				
					UT				
					CN			750,000	
					Total Amounts:		0	1,075,000	0
MARTIN					PL				
					DN				
					RW				
					UT				
					CN	BR	60,000		
					Project Cost:		60,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MARTIN	10023	CR-1120	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF WILLIS DIALS RD BRIDGE OVER PIGEONROOST FORK. (080C00053N)	PL DN RW UT CN	BR		157,500	467,880
Project Cost:							0	157,500	467,880
Total for MARTIN county					PL DN RW UT CN			157,500	467,880
Total Amounts:							60,000	157,500	467,880
MASON	1095	US-68	AM-BRIDGE (P)	REPAIR BRIDGE ON US 68 OVER LAWRENCE CREEK 0.13 MI SW OF KY 3056. (081B00067N) (16CCR)	PL DN RW UT CN	BR	1,400,000		
Project Cost:							1,400,000	0	0
MASON	8906	KY-3056	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 3056 OVER SOUTH FORK LAWRENCE CREEK. (16CCN)(081B00020N)	PL DN RW UT CN	BR			1,120,000
Project Cost:							0	0	1,120,000
MASON	8910	CR-1124	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF THE BRIDGE ON DAVIS LANE. (16CCN)(081C00022N)	PL DN RW UT CN	BR			875,000
Project Cost:							0	0	875,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MASON	8911	CR-1019	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF THE BRIDGE ON KENNEDY CREEK ROAD. (16CCN)(081C00009N)	PL DN RW UT CN	BR			560,000
Project Cost:							0	0	560,000
MASON	8916	CR-1122	AM-BRIDGE (P)	REPAIR BRIDGE (081C00018N) ON DIXIE PIKE. (16CCN)(SD)	PL DN RW UT CN	BR	60,000		
Project Cost:							60,000	0	0
MASON	10013	US-68	AM-BRIDGE (P)	ADDRESS DEFICIENCIES ON WILLIAM HARSHA BRIDGE OVER THE OHIO RIVER. JOINT PROJECT WITH OHIO. (081B00069N)(BSBP)(SD)	PL DN RW UT CN	BR		100,000	
Project Cost:							0	100,000	2,800,000
MASON	20011	US-68	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM			825,000
Project Cost:							0	0	8,250,000
Total for MASON county					PL DN RW UT CN		1,460,000	100,000	13,605,000
Total Amounts:							1,460,000	100,000	14,430,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MCCRACKEN	2	I-24	AM-BRIDGE (P)	I-24 BRIDGE OVER THE OHIO RIVER @ PADUCAH (B100); JOINT PROJECT WITH ILLINOIS TO MITIGATE SCOUR (073B00100N)(BSBP)(SD)	PL DN RW UT CN	BR			260,000
					Project Cost:		0	0	260,000
MCCRACKEN	115.1	US-60	MAJOR WIDENING(O)	PADUCAH-WICKLIFFE RD: IMPROVE US-60 FROM BETHEL CHURCH ROAD TO KY-1154 (MARTIN MARIETTA) (04CCR) (TO BE LET WITH 1-115.00). (10CCR)(12CCR)	PL DN RW UT CN	NH		1,320,000	
					Project Cost:		0	1,320,000	0
MCCRACKEN	115.11	US-60	PREFINANCD CONVRSN(O)	PADUCAH-WICKLIFFE RD: IMPROVE US-60 FROM BETHEL CHURCH ROAD TO KY-1154 (MARTIN MARIETTA) (04CCR) (TO BE LET WITH 1-115.00). (10CCR)(12CCR)	PL DN RW UT CN	NH		1,320,000	
					Project Cost:		0	1,320,000	0
MCCRACKEN	152	US-62	MAJOR WIDENING(O)	MAJOR WIDENING OF US-62 FROM KY-998 TO PADUCAH INFORMATION AGE PARK. (12CCR)	PL DN RW UT CN	SPP		2,340,000	
					Project Cost:		0	2,340,000	0
MCCRACKEN	153	KY-1286	RECONSTRUCTION(O)	IMPROVE KY-1286 (FRIENDSHIP ROAD) FROM MP 3.6 TO MP 6.4 IN PADUCAH. (PRELIMINARY ENGINEERING) (12CCR)(14CCR)(16CCN)	PL DN RW UT CN	SPP SPP		1,500,000	2,480,000
					Project Cost:		0	1,500,000	2,480,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MCCRACKEN	154	US-60	I-CHANGE RECONST(O)	CONSTRUCT A DOUBLE-CROSSOVER DIAMOND INTERCHANGE ON US-60 AT THE I-24 INTERCHANGE NEAR KENTUCKY OAKS MALL.	PL DN RW UT CN	NH		3,960,000	
Project Cost:							0	3,960,000	0
MCCRACKEN	1152	KY-1954	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER BOTTOM DITCH ON KY 1954 0.7 MILE NORTH OF KY 348 (073B00096N) .	PL DN RW UT CN	BR			574,000
Project Cost:							0	0	574,000
MCCRACKEN	1154	KY-994	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER BRANCH OF BOTTOM DITCH ON KY 994 0.8 MI NW OF KY 348 (073B00015N)(EBRP)	PL DN RW UT CN	BR		168,000	
Project Cost:							0	168,000	791,000
MCCRACKEN	10006	I-24	AM-BRIDGE (P)	ADDRESS DEFICIENCIES ON I-24 BRIDGE OVER OHIO RIVER. JOINT PROJECT WITH ILLINOIS. (073B00100N)(BSBP)(SD)	PL DN RW UT CN	BR			2,000,000
Project Cost:							0	0	2,000,000
MCCRACKEN	10007	I-24	AM-BRIDGE (P)	ADDRESS DEFICIENCIES WITH BRIDGE LIGHTING ON I-24 BRIDGE OVER THE OHIO RIVER. JOINT PROJECT WITH ILLINOIS. (073B000100N)(BSBP)(SD)	PL DN RW UT CN	BR		375,000	
Project Cost:							0	375,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MCCRACKEN	10012	KY-339	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 339 BRIDGE OVER MASSAC CREEK. (073B00058N)	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR			892,500
				Project Cost:			0	210,000	892,500
MCCRACKEN	20019	US-45	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL				
					DN	PM		100,000	
					RW				
					UT				
					CN	PM		1,000,000	
				Project Cost:			0	1,100,000	0
Total for MCCRACKEN county					PL				
					DN			1,978,000	
					RW			2,640,000	2,480,000
					UT			2,340,000	
					CN			5,335,000	4,517,500
				Total Amounts:			0	12,293,000	6,997,500
MCCREARY	261.3	KY-92	RELOCATION(O)	IMPROVE KY-92 FROM WEST OF KY-592 TO EAST OF THE WHITLEY/MCCREARY COUNTY LINE (SECTION 2).(2014BOP)(SAME AS 11-184.20)	PL				
					DN				
					RW				
					UT				
					CN	STP		8,000,000	
				Project Cost:			0	8,000,000	0
MCCREARY	261.31	KY-92	PREFINANCD CONVRSN(O)	IMPROVE KY-92 FROM WEST OF KY-592 TO EAST OF THE WHITLEY/MCCREARY COUNTY LINE (SECTION 2).(2014BOP)(SAME AS 11-184.20)	PL				
					DN				
					RW				
					UT				
					CN	STP			7,000,000
				Project Cost:			0	0	7,000,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MCCREARY	1065	CR-1239	AM-BRIDGE (P)	BRIDGE OVER ROCK CREEK ON OLD FIDELITY-BELL FARM ROAD (CR 1239) 0.25 MI W OF ROCK CREEK ROAD (CR 1236) (074C00008N) (SR=22)	PL DN RW UT CN	BR		196,000	
					Project Cost:		0	196,000	448,000
MCCREARY	10002	KY-1044	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1044 BRIDGE OVER MARSH CREEK. (074B00023N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	451,500
MCCREARY	10003	KY-700	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-700 BRIDGE OVER INDIAN CREEK. (074B00026N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	1,155,000
MCCREARY	10004	KY-478	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-478 BRIDGE OVER MARSH CREEK. (074B00027N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	521,500
Total for MCCREARY county					PL DN RW UT CN			756,000	
					Total Amounts:		0	8,000,000	9,576,000
								8,756,000	9,576,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MCLEAN	1078	US-431	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF OVERFLOW STRUCTURE ON US-431 AT THE MUHLENBERG-MCLEAN CO LINE B00056N.	PL				
					DN				
					RW				
					UT				
					CN	BR	2,500,000		
					Project Cost:		2,500,000	0	0
MCLEAN	1090	KY-2385	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER BRANCH OF POND DRAIN CREEK ON KY 2385 0.9 MI SW OF KY 81 (075B00066N)	PL				
					DN	BR		308,000	
					RW				
					UT				
					CN	BR			784,000
					Project Cost:		0	308,000	784,000
MCLEAN	8400	US-431	SPOT IMPROVEMENTS(O)	SPOT IMPROVEMENTS AT THE INTERSECTION OF US-431 AND KY-250. (08CCN)(12CCR)	PL				
					DN				
					RW	SPP		200,000	
					UT	SPP		180,000	
					CN	SPP			500,000
					Project Cost:		0	380,000	500,000
MCLEAN	8852	KY-56	RECONSTRUCTION(O)	CORRECT LINE OF SIGHT WITH INTERSECTION OF KY 56 & KY 1233. (14CCN)	PL				
					DN				
					RW				
					UT				
					CN	SPP			450,000
					Project Cost:		0	0	450,000
MCLEAN	10007	US-431	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF US-431 BRIDGE OVER DRAIN TO CYPRESS CREEK. (075B00019N)	PL				
					DN	BR		280,000	
					RW				
					UT				
					CN	BR			3,010,000
					Project Cost:		0	280,000	3,010,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MCLEAN	10008	KY-81	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-81 BRIDGE OVER SLOUGH. (075B00026N)	PL DN RW UT CN	BR		245,000	
Project Cost:							0	245,000	892,500
Total for MCLEAN county									
					PL DN RW UT CN			833,000 200,000 180,000	
Total Amounts:							2,500,000		5,636,500
							2,500,000	1,213,000	5,636,500
MEADE	1088	KY-823	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CULVERT OVER UNNAMED STREAM ON KY 823 0.5 MILE WEST OF KY 2734.(082B00008N)	PL DN RW UT CN	BR		105,000	
Project Cost:							0	105,000	560,000
Total for MEADE county									
					PL DN RW UT CN			105,000	
Total Amounts:							0	105,000	560,000
MENIFEE	371	KY-77	FOREST HIGHWAY(P)	RESURFACING AND WIDENING EXISTING GRAVEL PARKING PULL-OFFS AND INSTALLATION OF GUARDRAIL ALONG KY 77 AND KY 715 IN THE RED RIVER GORGE AREA IN MENIFEE, POWELL, AND WOLFE COUNTIES. (2016BOP)	PL DN RW UT CN	FH	765,000		
Project Cost:							765,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MENIFEE	372	KY-1274	FOREST HIGHWAY(P)	ROCKFALL/SLOPE IMPROVEMENTS ALONG KY 1274 NORTH OF THE LONG BOW BOAT RAMP IN MENIFEE COUNTY. (2016BOP)	PL DN RW UT CN	 FH FH FH	 100,000 100,000 2,625,000		
Project Cost:							<u>2,825,000</u>	<u>0</u>	<u>0</u>
MENIFEE	373	KY-1274	FOREST HIGHWAY(P)	ROCKFALL/SLOPE IMPROVEMENTS ALONG KY 1274 SOUTH OF THE MENIFEE/ROWAN COUNTY LINE. (2016BOP)	PL DN RW UT CN	 FH FH FH	 250,000 250,000 4,010,000		
Project Cost:							<u>4,510,000</u>	<u>0</u>	<u>0</u>
MENIFEE	8802	US-460	SAFETY(P)	IMPROVE SAFETY AND GEOMETRICS ON US-460 FROM THE END OF ROTHWELL HILL IMPROVEMENTS TO THE BRIDGE OVER BEAVER CREEK. (14CCN)(16CCR)	PL DN RW UT CN	 SPP SPP			
Project Cost:							<u>0</u>	<u>0</u>	<u>3,180,000</u>
Total for MENIFEE county					PL DN RW UT CN		350,000 350,000 7,400,000		2,180,000 1,000,000
Total Amounts:							<u>8,100,000</u>	<u>0</u>	<u>3,180,000</u>
MERCER	8858	US-127	SAFETY(P)	SAFETY IMPROVEMENTS ON US 127 IN SALVISA. (14CCN)	PL DN RW UT CN	 SPP		200,000	
Project Cost:							<u>0</u>	<u>200,000</u>	<u>0</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MERCER	10003	KY-1941	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1941 BRIDGE OVER CHAPLIN RIVER. (084B00030N)	PL				
					DN	BR		300,000	
					RW				
					UT				
					CN	BR			682,000
				Project Cost:			0	300,000	682,000
MERCER	10004	CR-1322	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF STRATTON RD BRIDGE OVER BRUSH CREEK. (084C00029N)	PL				
					DN	BR		192,500	
					RW				
					UT				
					CN	BR			595,000
				Project Cost:			0	192,500	595,000
Total for MERCER county					PL				
					DN			692,500	
					RW				
					UT				
					CN				1,277,000
					Total Amounts:		0	692,500	1,277,000
METCALFE	1087	KY-496	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER OIL WELL BRANCH ON KY 496 0.5 MILE SE OF KY 533.(085B00025N) EBRP)(SD)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			287,000
				Project Cost:			0	175,000	287,000
METCALFE	8506.2	KY-163	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE AND APPROACHES OVER ROGERS CREEK AT MP 7.307. (DESIGN HANDLED UNDER 3-8506.00) 085B00010N (2014BOP)(SD)	PL				
					DN				
					RW				
					UT				
					CN	BR	3,000,000		
				Project Cost:			3,000,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
METCALFE	8859	KY-163	RECONSTRUCTION(O)	RECONSTRUCT KY 163 AS A NEW ROUTE ON THE WEST SIDE OF EDMONTON FROM KY 163 AT GARY BELL RD (MP 10.0) S OF EDMONTON, CROSSING US 68 (STOCKTON ST) 2000 FT WEST OF THE COURTHOUSE SQ, TO US 68	PL DN RW UT CN	SPP			1,000,000
Project Cost:							0	0	1,000,000
METCALFE	10005	KY-1243	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1243 BRIDGE OVER KNOB LICK SPRINGS. (085B00034N)	PL DN RW UT CN	BR		157,500	
Project Cost:							0	157,500	262,500
METCALFE	10006	CR-1108	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF MOSBY RIDGE RD BRIDGE OVER E FORK LITTLE BARREN RVR. (085C00005N)	PL DN RW UT CN	BR		210,000	
Project Cost:							0	210,000	896,000
Total for METCALFE county					PL DN RW UT CN			542,500	1,000,000
Total Amounts:							3,000,000		1,445,500
							3,000,000	542,500	2,445,500
MONROE	128.1	KY-214	FERRY OPERATION(P)	OPERATION OF TURKEY NECK BEND FERRY FOR FY 2019.(12CCR)	PL DN RW UT CN	SPP		444,000	
Project Cost:							0	444,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MONROE	128.11	KY-214	FERRY OPERATION(P)	OPERATION OF TURKEY NECK BEND FERRY FOR FY 2020.(12CCR)	PL DN RW UT CN	SPP			444,000
					Project Cost:		0	0	444,000
MONROE	7020.17	-0	NEW ROUTE(O)	CONSTRUCT NEW ROUTE FOR THE EAST TOMPKINSVILLE BYPASS "SURFACING ONLY". (98CCN)(02CCR) (2002BOPC)(DESIGN "STP" FUNDING SHALL BE SUPPLEMENTAL TO THE AUTHORIZED AMOUNT ALREADY EXPENDED ON	PL DN RW UT CN	STP		730,000	
					Project Cost:		0	730,000	0
MONROE	7020.18	-0	PREFINANCD CONVRSN(O)	CONSTRUCT NEW ROUTE FOR THE EAST TOMPKINSVILLE BYPASS "SURFACING ONLY". (98CCN)(02CCR) (2002BOPC)(DESIGN "STP" FUNDING SHALL BE SUPPLEMENTAL TO THE AUTHORIZED AMOUNT ALREADY EXPENDED ON	PL DN RW UT CN	STP			6,580,000
					Project Cost:		0	0	6,580,000
MONROE	80003	KY-100	BRIDGE REPLACEMENT(P)	REPLACE BRIDGE ON KY-100 BETWEEN MP 14.7 AND 14.9	PL DN RW UT CN	SPP SPP SPP		250,000	150,000 500,000
					Project Cost:		0	250,000	650,000
Total for MONROE county					PL DN RW UT CN			250,000	150,000 500,000
					Total Amounts:		0	1,174,000 1,424,000	7,024,000 7,674,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MONTGOMERY	240.01	KY-1991	MAJOR WIDENING(O)	WIDEN KY 1991 FROM MAYSVILLE ROAD TO MIDLAND TRAIL INDUSTRIAL PARK, MONTGOMERY COUNTY (SEE 7-8501.00 FOR "SPB" FUNDS)(2005HPP-KY129)	PL DN RW UT CN	HPP	559,899		
					Project Cost:		559,899	0	0
MONTGOMERY	250.1	US-460	RECONSTRUCTION(O)	IMPROVE US-460 AT LUCKY STOP HILL. (12CCR)	PL DN RW UT CN	NH	9,450,000		
					Project Cost:		9,450,000	0	0
MONTGOMERY	411	KY-1991	MINOR WIDENING(O)	UPGRADE HINKSTON PIKE IN MT. STERLING FROM NEW MIDLAND TRAIL TO THE NEW INDUSTRIAL PARK ENTRANCE (INCLUDES EXTENSION OF INDUSTRIAL ACCESS ROAD TO HINKSTON PIKE). (12CCR)	PL DN RW UT CN	SPP		4,010,000	
					Project Cost:		0	4,010,000	0
MONTGOMERY	8810	US-60	MAJOR WIDENING(O)	WIDEN EXISTING PAVEMENT AND IMPROVE VERTICAL AND HORIZONTAL CURVES FROM EXISTING MOUNT STERLING BYPASS (KY 686) TO 500' WEST OF BENTBROOK SUBDIVISION. ADD FULL WIDTH SHOULDERS AND A CENTER	PL DN RW UT CN	SPP			800,000
					Project Cost:		0	0	800,000
Total for MONTGOMERY county					PL DN RW UT CN		10,009,899	4,010,000	
					Total Amounts:		10,009,899	4,010,000	800,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
MORGAN	293.1	KY-7	RECONSTRUCTION(O)	RECONSTRUCT/WIDENING OF MAIN ST (KY 7) IN WEST LIBERTY BEGINNING AT RIVERSIDE DR. (CS 1058) AND EXTENDING NORTH TO 0.159 MILES NORTH OF INTERSECTION WITH CEDAR RD (CS 1053). (2014BOP)(D,R,U COMPLETED	PL DN RW UT CN	STP	3,300,000		
Project Cost:							3,300,000	0	0
MORGAN	1111	US-460	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER WHITE OAK CREEK ON US 460 0.5 MILE NW OF KY 1000. (088B00021N)	PL DN RW UT CN	BR		224,000	
Project Cost:							0	224,000	1,239,000
MORGAN	8902	KY-191	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 191 OVER CANEY CREEK .5 MILES WEST OF KY 1162. (16CCN)(SD)	PL DN RW UT CN	BR		182,000	
Project Cost:							0	182,000	756,000
MORGAN	10016	US-460	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF US 460 BRIDGE OVER BIG SPRING BRANCH. (088B00022N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	472,500
MORGAN	20001	KY-9009	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF BERT T. COMBS MOUNTAIN PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 57.72 TO MILEPOINT 63.08	PL DN RW UT CN	PM		210,000	
Project Cost:							0	2,100,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for MORGAN county					PL				
					DN			791,000	
					RW				
					UT				
					CN		3,300,000	2,100,000	2,467,500
					Total Amounts:		3,300,000	2,891,000	2,467,500
MUHLENBERG	8506	US-62	MAJOR WIDENING(O)	WIDEN US-62 FROM WAL-MART TO US-431. (08CCN)(10CCR)(12CCR)(14CCR)(INCLUDES 2-8301)	PL				
					DN				
					RW				
					UT				
					CN	SPP	7,500,000		
					Project Cost:		7,500,000	0	0
MUHLENBERG	8802	KY-181	MINOR WIDENING(O)	WIDEN KY-181 BY FOUR FEET ON EACH SIDE FROM INTERSECTION 601 TO WENDELL FORD CENTER. (14CCN)	PL				
					DN				
					RW	SPP			530,000
					UT				
					CN				
					Project Cost:		0	0	530,000
MUHLENBERG	8803	KY-2533	RECONSTRUCTION(O)	STRAIGHTEN DEAN ROAD INTERSECTION OF 189 BYPASS TO KY 181 NORTH NEAR THE INTERSECTION WITH THE WKY PARKWAY, WENDELL FORD NATIONAL GUARD CENTER, AND JOB CORP. (14CCN)	PL				
					DN	SPP		780,000	
					RW	SPP			500,000
					UT				
					CN				
					Project Cost:		0	780,000	500,000
MUHLENBERG	10009	CR-1141	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF UNION RIDGE RD BRIDGE OVER ROCKY CREEK. (089C00004N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			647,500
					Project Cost:		0	175,000	647,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
Total for MUHLENBERG county					PL				
					DN			955,000	
					RW				1,030,000
					UT				
					CN		7,500,000		647,500
					Total Amounts:		7,500,000	955,000	1,677,500
NELSON	396.1	US-150	RECONSTRUCTION(O)	IMPROVE SAFETY, MOBILITY, AND GEOMETRICS ON US-150 FROM THE BLUEGRASS PARKWAY TO THE NELSON/WASHINGTON COUNTY LINE. (2016BOP)	PL				
					DN	STP			600,000
					RW				
					UT				
					CN				
					Project Cost:		0	0	600,000
NELSON	1078	US-62	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGES ON US 62 (HINKLE CREEK) AND KY 48 IN BLOOMFIELD 090B00096N (SR 28.2) 090B00095N (12CCR)	PL				
					DN				
					RW				
					UT				
					CN	BR	1,260,000		
					Project Cost:		1,260,000	0	0
NELSON	1089	KY-509	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER FROMAN CREEK ON KY 509 0.9 MI W OF US 31E (090B00068N)	PL				
					DN	BR		105,000	
					RW				
					UT				
					CN	BR			756,000
					Project Cost:		0	105,000	756,000
NELSON	8309.1	US-150	MAJOR WIDENING(O)	IMPROVE US-150 FROM WEST OF KY-245 THROUGH THE BLUEGRASS PARKWAY INTERCHANGE TO EAST OF LESLIE BALLARD LN (CR 1110). (06CCN)(2006BOPC)(12CCR)(14CCR)(16CCR)	PL				
					DN				
					RW				
					UT	SPP		1,000,000	
					CN	SPP			4,000,000
					Project Cost:		0	1,000,000	4,000,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
NELSON	8809	-0	NEW ROUTE(O)	NEW ROUTE BETWEEN US 62 AND KY 245 WEST OF BARDSTOWN.	PL				
					DN	SPP			500,000
					RW				
					UT				
					CN				
				Project Cost:			0	0	500,000
NELSON	10004	KY-52	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-52 BRIDGE OVER MONKS CREEK. (090B00033N)	PL				
					DN	BR		105,000	
					RW				
					UT				
					CN	BR			1,015,000
				Project Cost:			0	105,000	1,015,000
NELSON	10005	CS-4003	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF DEPOT ST BRIDGE OVER SIMPSON CREEK. (090C00045N)	PL				
					DN	BR		98,000	
					RW				
					UT				
					CN	BR			406,000
				Project Cost:			0	98,000	406,000
NELSON	10014	CR-1128	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF POTTERSHOP LOOP BRIDGE OVER ROWAN CREEK. (090C00021N)	PL				
					DN	BR		91,000	
					RW				
					UT				
					CN	BR			227,500
				Project Cost:			0	91,000	227,500
NELSON	20023	BG-9002	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF MARTHA LAYNE COLLINS BLUEGRASS PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 8.837 TO MILEPOINT 10.172	PL				
					DN	PM		110,000	
					RW				
					UT				
					CN	PM		1,100,000	
				Project Cost:			0	1,210,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
NELSON	80050	US-62	CONGESTION MITIGTN(O)	CONSTRUCT A ROUNDABOUT AT THE INTERSECTION OF US-31E AND US-62. (NELSON COUNTY FISCAL COURT WILL DO DESIGN AND BUILD ROUNDABOUT)	PL DN RW UT CN	SPP			1,500,000
Project Cost:							0	0	1,500,000
Total for NELSON county					PL DN RW UT CN			509,000	1,100,000
Total Amounts:							1,260,000	1,100,000	7,904,500
NICHOLAS	10011	KY-36	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-36 BRIDGE OVER BRUSHY FORK. (091B00018N)	PL DN RW UT CN	BR		525,000	
Project Cost:							0	525,000	1,610,000
NICHOLAS	10012	CS-1096	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF DORSEY AVE BRIDGE OVER BRUSH FORK. (091C00029N)	PL DN RW UT CN	BR		280,000	
Project Cost:							0	280,000	595,000
Total for NICHOLAS county					PL DN RW UT CN			805,000	2,205,000
Total Amounts:							0	805,000	2,205,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
OHIO	1083	US-62	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON US 62 OVER BRANCH OF THREE LICK FORK 0.23 MILE E OF GREEN MEADOWS DR (CS 6068)092B00032 (SD)	PL DN RW UT CN	BR	1,148,000		
					Project Cost:		1,148,000	0	0
OHIO	1091	US-62	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER THREELICK FORK ON US 62 0.4 MILE E OF GREEN MEADOWS DRIVE (CS 6068) IN BEAVER DAM. (092B00033N)	PL DN RW UT CN	BR		308,000	
					Project Cost:		0	308,000	1,029,000
OHIO	2092.2	WN-9007	I-CHANGE RECONST(O)	I-65 SPUR CORRIDOR; RECONSTRUCT THE EXISTING NATCHER PARKWAY/KY-69 INTERCHANGE (EXIT 50) IN OHIO COUNTY. (2016BOP)	PL DN RW UT CN	NH		1,350,000	
					Project Cost:		0	2,600,000	0
OHIO	10010	KY-85	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-85 BRIDGE OVER BR OF W FK LEWIS CREEK. (092B00053N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	962,500
OHIO	10011	CR-1003	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF WEST HALLS CREEK R BRIDGE OVER BRANCH OF HALLS CREEK. (092C00001N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	630,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
OHIO	10012	CR-1067	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF SUNNYDALE RD BRIDGE OVER BRANCH OF ROUGH RIVER. (092C00020N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	630,000
OHIO	10013	CR-1036	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF RAILROAD BED RD BRIDGE OVER WFK ADAMS CREEK. (092C00067N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	735,000
OHIO	10014	CR-1414	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF JOHNSON SCHOOL RD BRIDGE OVER BARASS DITCH. (092C00080N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	647,500
OHIO	10015	CR-1083	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF ROCK CREEK LN BRIDGE OVER BR-S.FK PANTHER CK. (092C00097N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	840,000
OHIO	10016	CR-1510	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF QUARTERHORSE LN BRIDGE OVER N FK PANTHER CREEK. (092C00133N)	PL DN RW UT CN	BR		245,000	
					Project Cost:		0	245,000	892,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
OHIO	20039	WK-9001	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 65.68 TO MILEPOINT 83.3	PL DN RW UT CN	PM			16,596,000
Project Cost:							0	0	16,596,000
OHIO	20040	WK-9001	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF WENDELL H. FORD WESTERN KY PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 83.3 TO MILEPOINT 87.544	PL DN RW UT CN	PM			4,282,000
Project Cost:							0	0	4,282,000
OHIO	20041	WN-9007	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF WILLIAM H. NATCHER PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 49.8 TO MILEPOINT 59.86 (61.553 NON-CARDINAL)	PL DN RW UT CN	PM			11,064,000
Project Cost:							0	0	11,064,000
Total for OHIO county					PL				
					DN			1,708,000	
					RW			1,350,000	
					UT			1,250,000	
					CN		1,148,000		38,308,500
Total Amounts:							1,148,000	4,308,000	38,308,500
OLDHAM	410.01	-0	BIKE/PED FACIL(O)	OLDHAM COUNTY BICYCLE & PEDESTRIAN TRAIL - OLD LAGRANGE RD. CONSTRUCT A BICYCLE AND PEDESTRIAN TRAIL ALONG OLD LAGRANGE ROAD FROM KY 146 TO THE INTERSECTION WITH KY 329 BYPASS. (FUNDING	PL DN RW UT CN	SLO SLO		250,000	500,000
Project Cost:							0	250,000	500,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
OLDHAM	434	CR-1002	SAFETY(P)	CONSTRUCT A 4-LANE UNINTERRUPTED RAIL UNDERPASS WEST OF LAGRANGE. (LOCAL MATCH)(ALL WORK BY OLDHAM COUNTY) (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP). (14CCR)	PL DN RW UT CN	SLO	100,000	10,000,000	0
Project Cost:							100,000	10,000,000	0
OLDHAM	440.1	KY-1793	SAFETY(P)	CONSTRUCT SIDEWALKS ON KY 1793 FROM RIDGEVIEW DRIVE TO SETTLERS POINT TRAIL. (FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLO	100,000	0	0
Project Cost:							100,000	0	0
OLDHAM	441.01	US-42	RECONSTRUCTION(O)	RECONSTRUCT US 42 AND WIDEN FROM 2 LANES TO 3 LANES (3RD LANE WILL BE A CENTER TURN LANE) FROM JEFFERSON/OLDHAM COUNTY LINE TO RIDGEMOOR DRIVE. PROJECT WILL INCLUDE THE	PL DN RW UT CN	SLO	5,320,000	0	0
Project Cost:							5,320,000	0	0
OLDHAM	449	KY-22	RECONSTRUCTION(O)	INTERSECTION IMPROVEMENT AT KY 22 AND KY 329 IN CRESTWOOD. (ALL WORK BY KYTC) (2006BOPC)(FUNDING SUBJECT TO FISCAL CONSTRAINT PENDING MPO TIP)	PL DN RW UT CN	SLO	300,000	0	0
Project Cost:							300,000	0	0
OLDHAM	468.1	CS-2102	CONGESTION MITIGTN(O)	CONSTRUCTION OF A PARK AND RIDE FACILITY INCLUDING A PARKING LOT, SHELTER, PLAYGROUND, BIKE LOCKERS, WALKWAYS, AND A 1000' ACCESS ROAD LOCATED ON APPLE PATCH WAY OFF OF KY-329 NEAR I-71 EXIT 14	PL DN RW UT CN	SLO	1,174,800	0	0
Project Cost:							1,174,800	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
OLDHAM	483.1	I-71	MAJOR WIDENING(O)	WIDEN I-71 FROM FOUR TO SIX LANES FROM KY-329 (MP 14.1) TO KY-393 (MP 18.0). (16CCN)	PL DN RW UT CN	NH		3,500,000	
Project Cost:							0	3,500,000	0
OLDHAM	483.3	I-71	NEW INTERCHANGE(O)	CONSTRUCT NEW I-71 INTERCHANGE BETWEEN KY-393 AND KY-53 TO RELIEVE CONGESTION IN LAGRANGE.	PL DN RW UT CN	NH NH NH NH	1,500,000	3,000,000 1,900,000	6,000,000
Project Cost:							1,500,000	4,900,000	6,000,000
OLDHAM	494	CR-1209	SAFETY-HAZARD ELIM(P)	OLD FLOYDSBURG ROAD SAFETY IMPROVEMENTS: REPLACE NARROW ONE-LANE CULVERT CROSSING; CLEAR TREES AND VEGETATION OUT OF RIGHT-OF-WAY; ADD SHOULDER TO THE ROAD, AND ADD SIGNAGE	PL DN RW UT CN	SLO	700,000		
Project Cost:							700,000	0	0
OLDHAM	542	KY-329	RECONSTRUCTION(O)	INTERSECTION REALIGNMENT/RECONSTRUCTION AT KY 329 AND KY 329 BYPASS (2016BOP).	PL DN RW UT CN	SLO SLO SLO	120,000	100,000	100,000
Project Cost:							120,000	100,000	100,000
OLDHAM	754	-0	NEW ROUTE(O)	CONSTRUCTION OF A NEW CONNECTION FROM OLD LAGRANGE ROAD TO KY 393 AT BUCKNER. LPA CONTRACT. (BOP2012)	PL DN RW UT CN	SLO SLO SLO	714,500	228,000 2,300,000	
Project Cost:							714,500	2,528,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
OLDHAM	757	CS-2030	BIKE/PED FACIL(O)	CONSTRUCT 5' CONCRETE SIDEWALKS IN THE EXISTING RIGHT-OF-WAY ALONG BOTH SIDES OF SPRING HILL TRACE FROM KY 329 TO THE END OF THE EXISTING SUBDIVISION, SLIGHTLY BEYOND SPRING HILL COURT (2014BOP).	PL DN RW UT CN	SLO SLO	75,000	445,000	
Project Cost:							75,000	445,000	0
OLDHAM	10012	KY-1488	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1488 BRIDGE OVER ORGAN CREEK. (093B00048N)	PL DN RW UT CN	BR BR		280,000	343,000
Project Cost:							0	280,000	343,000
OLDHAM	80005	KY 329	AIR QUALITY(P)	IMPROVE THE INTERCHANGE OF I 71 AND KY 329	PL DN RW UT CN	SPP		250,000	
Project Cost:							0	250,000	0
Total for OLDHAM county					PL DN RW UT CN		1,720,000 714,500 75,000 7,594,800	4,280,000 3,100,000 2,128,000 12,745,000	500,000 100,000 6,343,000
Total Amounts:							10,104,300	22,253,000	6,943,000
OWEN	198	KY-22	RECONSTRUCTION(O)	IMPROVE SAFETY ON KY-22 FROM KY-227 TO KY-845. (06CCR)(08CCN)(12CCR)(14CCR)	PL DN RW UT CN	SPP			3,500,000
Project Cost:							0	0	3,500,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
OWEN	1088	CR-1214	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER CEDAR CREEK ON SAWDRIDGE CREEK W ROAD (CR 1214) 0.2 MI N OF US 127 (094C00011N)	PL DN RW UT CN	BR			672,000
Project Cost:							0	0	672,000
OWEN	10013	KY-3102	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 3102 BRIDGE OVER BRUSH CREEK. (094B00034N)	PL DN RW UT CN	BR		280,000	1,942,500
Project Cost:							0	280,000	1,942,500
Total for OWEN county					PL DN RW UT CN			280,000	6,114,500
Total Amounts:							0	280,000	6,114,500
OWSLEY	279.61	KY-30	RECONSTRUCTION(O)	IMPROVE KY-30 FROM KY-847 IN OWSLEY COUNTY TO JACKSON COUNTY LINE.(LET W/ JACKSON CO. SECTION UNDER 11-278.30)(SEE 10-279.60 FOR PE & ENVIR)(AR/W)(14CCR) (16CCR)	PL DN RW UT CN	STP		14,500,000	
Project Cost:							0	14,500,000	0
Total for OWSLEY county					PL DN RW UT CN			14,500,000	
Total Amounts:							0	14,500,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
PENDLETON	8706	US-27	MAJOR WIDENING(O)	IMPROVE SAFETY ON US-27 FROM BUTLER IN PENDLETON COUNTY TO SOUTH OF KY-154 IN CAMPBELL COUNTY.(12CCN)(14CCR)	PL DN RW UT CN	SPP			5,000,000
Project Cost:							0	0	5,000,000
PENDLETON	10004	KY-159	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-159 BRIDGE OVER NORTH LITTLE KINCAID CRE. (096B00006N)	PL DN RW UT CN	BR		210,000	490,000
Project Cost:							0	210,000	490,000
Total for PENDLETON county					PL DN RW UT CN			210,000	5,490,000
Total Amounts:							0	210,000	5,490,000
PERRY	158	KY-15	RECONSTRUCTION(O)	IMPROVE SAFETY, UPGRADE GEOMETRICS, AND ADDRESS CAPACITY ISSUES FOR KY-15 IN PERRY COUNTY FROM MORTON BOULEVARD TO KY-15 BYPASS	PL DN RW UT CN	NH	47,000,000		
Project Cost:							47,000,000	0	0
PERRY	1113	CR-1114	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER NORTH FORK KENTUCKY RIVER ON KENMONT ROAD (CR 1114) 380 FT SE OF KY 7 (097C00005N)	PL DN RW UT CN	BR		224,000	1,400,000
Project Cost:							0	224,000	1,400,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
PERRY	1114	CR-1140	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER STRAIGHT FORK ON LITTLE LEATHERWOOD CREEK ROAD (CR 1140) AT JCT WITH KY 3348 (097C00013N)	PL DN RW UT CN	BR		182,000	
Project Cost:							0	182,000	504,000
PERRY	8903	HR-9006	NEW INTERCHANGE(O)	NEW INTERCHANGE OFF OF A NEW EXIT 55 HAL ROGERS PARKWAY	PL DN RW UT CN	STP STP		1,200,000	320,000
Project Cost:							0	1,200,000	320,000
PERRY	8906	KY-80	SAFETY(P)	SAFETY IMPROVEMENTS ON KY-80 FROM LESLIE COUNTY LINE TO KY-451. (16CCN)	PL DN RW UT CN	STP STP STP		700,000	350,000 280,000
Project Cost:							0	700,000	630,000
PERRY	8910	KY-1166	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY-1166 OVER RT. FK. MACES CREEK. (16CCN) 097B00110N	PL DN RW UT CN	BR			938,000
Project Cost:							0	0	938,000
PERRY	8913	KY-1166	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 1166 OVER MACES CREEK. (16CCN) 097B00072N (SD)	PL DN RW UT CN	BR BR BR	155,000	103,000	742,000
Project Cost:							155,000	103,000	742,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
PERRY	8915	CR-1150	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER LEATHERWOOD CREEK. (16CCN) 097C00021N	PL DN RW UT CN	BR			455,000
				Project Cost:			0	0	455,000
PERRY	10004	CR-1115	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF GEORGES BRANCH RD BRIDGE OVER GEORGES BRANCH. (097C00007N)	PL DN RW UT CN	BR		140,000	390,000
				Project Cost:			0	140,000	390,000
PERRY	10005	CR-1145	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF OWENS BR RD BRIDGE OVER OWENS BRANCH. (097C00018N)	PL DN RW UT CN	BR		140,000	340,000
				Project Cost:			0	140,000	340,000
PERRY	10006	CR-1083	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF HALL OLD HOME PLACE BRIDGE OVER BIG CREEK. (097C00084N)	PL DN RW UT CN	BR		175,000	613,000
				Project Cost:			0	175,000	613,000
PERRY	10017	KY-476	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 476 BRIDGE OVER BALL FORK. (097B00007N)	PL DN RW UT CN	BR		210,000	840,000
				Project Cost:			0	210,000	840,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
PERRY	20003	KY-80	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF PCC PAVEMENT	PL				
					DN	PM		100,000	
					RW				
					UT				
					CN	PM		100,000	
					Project Cost:		<u>0</u>	<u>200,000</u>	<u>0</u>
Total for PERRY county					PL				
					DN			1,871,000	
					RW		155,000	1,200,000	350,000
					UT			103,000	600,000
					CN		47,000,000	100,000	6,222,000
					Total Amounts:		<u>47,155,000</u>	<u>3,274,000</u>	<u>7,172,000</u>
PIKE	347	-0	NEW ROUTE(O)	MARION BRANCH INDUSTRIAL PARK ACCESS ROAD.	PL				
					DN				
					RW				
					UT				
					CN	SPP		7,000,000	
					Project Cost:		<u>0</u>	<u>7,000,000</u>	<u>0</u>
PIKE	347.01	-0	PREFINANCD CONVRSN(O)	MARION BRANCH INDUSTRIAL PARK ACCESS ROAD. (ADDITIONAL FUNDING FOR 12-347.00)	PL				
					DN				
					RW				
					UT				
					CN	SPP			7,000,000
					Project Cost:		<u>0</u>	<u>0</u>	<u>7,000,000</u>
PIKE	1104	KY-610	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY-610 (MP 8.146) OVER LONG FORK; .1 MI S OF JCT KY-1469; (AR/W)098B00069N	PL				
					DN				
					RW				
					UT				
					CN	BR	770,000		
					Project Cost:		<u>770,000</u>	<u>0</u>	<u>0</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
PIKE	1115	KY-1441	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON FISHTRAP RD (KY 1441) OVER RACCOON CREEK AT INTERSECTION WITH COON CREEK (CR 1371) 098B00093N	PL				
					DN				
					RW				
					UT				
					CN	BR	665,000		
					Project Cost:		665,000	0	0
PIKE	1122	CR-1181	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER LEVISA FORK ON SOUTH RIVER ROAD CONNECTOR (CR 1181-70) AT JCT WITH US 460 NEAR VIRGINIA STATE LN (098C00088N)	PL				
					DN				
					RW				
					UT				
					CN	BR		980,000	
					Project Cost:		0	980,000	0
PIKE	1123	CR-1801	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER BLACKBERRY CREEK ON BIG BLUE SPRINGS ROAD (CR 1801) AT JCT WITH KY 1056 (098C00028N)	PL				
					DN				
					RW				
					UT				
					CN	BR		210,000	
					Project Cost:		0	210,000	0
PIKE	10008	KY-199	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-199 BRIDGE OVER PINSONS CREEK. (098B00032N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			484,400
					Project Cost:		0	175,000	484,400
PIKE	10009	KY-199	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-199 BRIDGE OVER POND CREEK. (098B00036N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			331,100
					Project Cost:		0	140,000	331,100

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
PIKE	10010	KY-3419	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-3419 BRIDGE OVER LEFT FK BLACKBERRY CR. (098B00180N)	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR			618,450
				Project Cost:			0	210,000	618,450
PIKE	10011	CR-1517	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF PIGEON ROOST RD BRIDGE OVER BIG CREEK. (098C00005N)	PL				
					DN	BR		157,500	
					RW				
					UT				
					CN	BR			389,200
				Project Cost:			0	157,500	389,200
PIKE	10012	CR-1545	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF MULLEN FRK BRIDGE OVER POND CREEK. (098C00021N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			567,280
				Project Cost:			0	140,000	567,280
PIKE	10013	CR-1906	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BEEFHIDE CRK BRIDGE OVER BEEFHIDE CREEK. (098C00119N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			506,100
				Project Cost:			0	175,000	506,100
PIKE	10024	CR-1789	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF ELWOOD RD BRIDGE OVER SHELBY CREEK. (098C00080N)	PL				
					DN	BR		192,500	
					RW				
					UT				
					CN	BR			930,580
				Project Cost:			0	192,500	930,580

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
PIKE	10025	CR-1360	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF RIGHT FORK OF BRUS BRIDGE OVER LEFT FK.BRUSHY FORK. (098C00091N)	PL DN RW UT CN	BR		157,500	
					Project Cost:		0	157,500	444,500
PIKE	10026	CR-1911	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CANEY HWY #1 BRIDGE OVER CANEY CREEK. (098C00113N)	PL DN RW UT CN	BR		140,000	
					Project Cost:		0	140,000	530,250
PIKE	10027	CR-1460	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF DESKINS RD BRIDGE OVER JOHNS CREEK. (098C00170N)	PL DN RW UT CN	BR		227,500	
					Project Cost:		0	227,500	875,000
PIKE	20002	US-23	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM			525,000
					Project Cost:		0	0	5,250,000
Total for PIKE county					PL DN RW UT CN		1,435,000	8,190,000	17,926,860
					Total Amounts:		1,435,000	9,905,000	18,451,860

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
POWELL	163	KY-213	SAFETY(P)	IMPROVE SAFETY AND GEOMETRICS, AND REDUCE CONGESTION KY-213 FROM KY-11 TO BOTTOM OF MOUNTAIN. (12CCR)(16CCR)	PL				
					DN				
					RW	SPP		4,000,000	
					UT	SPP		1,100,000	
					CN	SPP			2,000,000
					Project Cost:		<u>0</u>	<u>5,100,000</u>	<u>2,000,000</u>
POWELL	211	KY-2026	RECONSTRUCTION(O)	CORRECT FLOODING ISSUES ON KY-2026 FROM KY-11 TO THE RED RIVER IN CLAY CITY.	PL				
					DN	STP		500,000	
					RW	STP			200,000
					UT	STP			150,000
					CN				
					Project Cost:		<u>0</u>	<u>500,000</u>	<u>350,000</u>
POWELL	10007	KY-599	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-599 BRIDGE OVER CANE CREEK. (099B00069N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			770,000
					Project Cost:		<u>0</u>	<u>175,000</u>	<u>770,000</u>
POWELL	10008	KY-2026	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-2026 BRIDGE OVER RED RIVER. (099B00090N)	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR			1,120,000
					Project Cost:		<u>0</u>	<u>210,000</u>	<u>1,120,000</u>
POWELL	10018	KY-3354	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 3354 BRIDGE OVER CAT CREEK. (099B00081N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			560,000
					Project Cost:		<u>0</u>	<u>175,000</u>	<u>560,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
POWELL	20006	KY-9000	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF BERT T. COMBS MOUNTAIN PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 22.307 TO MILEPOINT 27.376	PL DN RW UT CN	PM		410,000	
						PM		4,100,000	
					Project Cost:		0	4,510,000	0
POWELL	20007	KY-9000	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF BERT T. COMBS MOUNTAIN PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 27.376 TO MILEPOINT 32.788	PL DN RW UT CN	PM			5,416,000
					Project Cost:		0	0	5,416,000
Total for POWELL county					PL DN RW UT CN			1,470,000 4,000,000 1,100,000 4,100,000	200,000 150,000 9,866,000
					Total Amounts:		0	10,670,000	10,216,000
PULASKI	59.25	KY-461	MAJOR WIDENING(O)	IMPROVE KY-461 FROM KY-80 TO BUCK CREEK BRIDGE, INCLUDING INTERCHANGE AT KY-80.	PL DN RW UT CN	NH		3,000,000	1,500,000
					Project Cost:		0	3,000,000	1,500,000
PULASKI	59.26	KY-461	PREFINANCD CONVRSN(O)	IMPROVE KY-461 FROM KY-80 TO BUCK CREEK BRIDGE, INCLUDING INTERCHANGE AT KY-80.	PL DN RW UT CN	NH		3,000,000	1,500,000
					Project Cost:		0	3,000,000	1,500,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
PULASKI	9010	KY-635	SAFETY-RR SEPARATN(P)	SAFETY PROJECT TO RECONSTRUCT KY 635 TO ELIMINATE AT GRADE RAILROAD CROSSING AND REPLACE WITH RAILROAD SEPARATION CROSSING AT SCIENCE HILL, KENTUCKY IN PULASKI COUNTY. (2016BOP)	PL DN RW UT CN	RRS RRS			1,800,000 1,300,000
					Project Cost:		0	0	3,100,000
Total for PULASKI county					PL DN RW UT CN			6,000,000	1,800,000 4,300,000
					Total Amounts:		0	6,000,000	6,100,000
ROBERTSON	8711	KY-616	RECONSTRUCTION(O)	IMPROVE CURVE ON KY 616 AND IMPROVE ROADWAY FROM THE NEW ROBERTSON COUNTY SCHOOL TO MT OLIVET. (12CCN) (14CCR)	PL DN RW UT CN	SPP SPP			250,000 210,000
					Project Cost:		0	0	460,000
Total for ROBERTSON county					PL DN RW UT CN				250,000 210,000
					Total Amounts:		0	0	460,000
ROCKCASTLE	6.1	I-75	MAJOR WIDENING(O)	TENN. STATE LINE-LEXINGTON; WIDEN I-75 TO 6 LANES FROM 1MI N SAND HILL ROAD UNDERPASS N TO 1.1 MILES N OF THE US-25 I-CHNG AT MT. VERNON. (16CCR)	PL DN RW UT CN	NH	41,110,000		
					Project Cost:		41,110,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ROCKCASTLE	8952	KY-461	RECONSTRUCTION(O)	IMPROVE KY-461 FROM US-150 TO THE EXISTING FOUR LANE APPROACH AT US-25. (16CCN)	PL				
					DN	NH		1,200,000	
					RW	NH			1,450,000
					UT				
					CN				
					Project Cost:		<u>0</u>	<u>1,200,000</u>	<u>1,450,000</u>
ROCKCASTLE	10010	KY-1326	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1326 BRIDGE OVER LITTLE RENFRO CREEK. (102B00026N)	PL				
					DN	BR		70,000	
					RW				
					UT				
					CN	BR			210,000
					Project Cost:		<u>0</u>	<u>70,000</u>	<u>210,000</u>
ROCKCASTLE	20003	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 52.05 TO MILEPOINT 55.295	PL				
					DN	PM		390,000	
					RW				
					UT				
					CN	PM		3,900,000	
					Project Cost:		<u>0</u>	<u>4,290,000</u>	<u>0</u>
ROCKCASTLE	20004	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 71.668 TO MILEPOINT 73.408	PL				
					DN	PM			210,000
					RW				
					UT				
					CN	PM			2,100,000
					Project Cost:		<u>0</u>	<u>0</u>	<u>2,310,000</u>
ROCKCASTLE	20005	US-25	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION	PL				
					DN	PM			175,000
					RW				
					UT				
					CN	PM			1,750,000
					Project Cost:		<u>0</u>	<u>0</u>	<u>1,925,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for ROCKCASTLE county					PL				
					DN			1,660,000	385,000
					RW				1,450,000
					UT				
					CN		41,110,000	3,900,000	4,060,000
					Total Amounts:		41,110,000	5,560,000	5,895,000
ROWAN	204	KY-32	RECONSTRUCTION(O)	IMPROVE KY-32 FROM PARK HILLS DRIVE TO VIKING DRIVE NORTH. (12CCR)	PL				
					DN				
					RW	SPP			5,500,000
					UT				
					CN				
					Project Cost:		0	0	5,500,000
ROWAN	227	US-60	SAFETY(P)	CONSTRUCT TURN LANES INTO LAKESIDE CHRISTIAN ACADEMY TO IMPROVE SAFETY. (12CCR)	PL				
					DN				
					RW				
					UT				
					CN	SPP	520,000		
					Project Cost:		520,000	0	0
ROWAN	8406	KY-377	RECONSTRUCTION(O)	IMPROVE SAFETY AND CONNECTIVITY AND REDUCE CONGESTION ON KY-377 FROM KY-32 TO NORTH OF KY-799. (08CCN)(10CCR)(16CCR)	PL				
					DN				
					RW	STP			2,600,000
					UT				
					CN				
					Project Cost:		0	0	2,600,000
ROWAN	8914	CR-1025	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON LITTLE PERRY ROAD OVER TRIPLETT CREEK.(16CCN)	PL				
					DN				
					RW				
					UT				
					CN	BR			822,500
					Project Cost:		0	0	822,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ROWAN	8915	KY-801	MAJOR WIDENING(O)	WIDEN KY 801 FROM NEAR MMRC REGIONAL PARK TO KY 158 IN FLEMING CO.	PL DN RW UT CN	STP		100,000	
					Project Cost:		<u>0</u>	<u>100,000</u>	<u>0</u>
Total for ROWAN county					PL DN RW UT CN			100,000	
					Total Amounts:		<u>520,000</u>	<u>100,000</u>	<u>8,922,500</u>
RUSSELL	8502	LN-9008	NEW INTERCHANGE(O)	CONSTRUCT A NEW INTERCHANGE AT THE CUMBERLAND PARKWAY INTERSECTION WITH KY-910 AT WINDSOR. (08CCN)(10CCR)	PL DN RW UT CN				
					Project Cost:	SPP	<u>6,740,000</u>	<u>0</u>	<u>0</u>
RUSSELL	8601.21	US-127	RELOCATION(O)	RELOCATE US-127 FROM EAST OF THE KY-1730 AND MANNTOWN RD INTERSECTION, AND EXTENDING NORTHERLY TO NORTH BANK OF CUMBERLAND RIVER. POTENTIAL DESIGN BUILD. (SEE 8-108&8-115 FOR PE/PH.2)(12CCR)	PL DN RW UT CN				
					Project Cost:	NH	<u>0</u>	<u>9,320,000</u>	<u>0</u>
RUSSELL	8601.23	US-127	PREFINANCD CONVRSN(O)	RELOCATE US-127 FROM EAST OF THE KY-1730 AND MANNTOWN RD INTERSECTION, AND EXTENDING NORTHERLY TO NORTH BANK OF CUMBERLAND RIVER (SEE 8-108&8-115 FOR PE/PH.2)(12CCR)(14CCR)	PL DN RW UT CN				
					Project Cost:	NH	<u>0</u>	<u>0</u>	<u>8,280,000</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
RUSSELL	80007	US 127	AIR QUALITY(P)	ADD A RIGHT TURNING ON US 127 SOUTHBOUND BEGINNING AT THE EASTBOUND EXIT OF THE CUMBERLAND PARKWAY FOR 0.2 MILES	PL DN RW UT CN	SPP		400,000	
Project Cost:							0	400,000	0
Total for RUSSELL county					PL DN RW UT CN		6,740,000	9,720,000	8,280,000
Total Amounts:							6,740,000	9,720,000	8,280,000
SCOTT	102.5	-0	BYPASS(O)	GEORGETOWN NORTHWEST BYPASS: IMPROVE CONNECTIVITY AND MOBILITY NORTHWEST AROUND GEORGETOWN FROM KY-32 TO I-75. (04CCR)(2004BOPC)(SEE 7-102.01 FOR "HPP" COMPONENT)(10CCR)(12CCR)(16CCR)	PL DN RW UT CN	STP			5,000,000
Project Cost:							0	0	5,000,000
SCOTT	1127	KY-1689	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 1689 OVER LECOMPTE RUN 0.46 MILE W OF KY 227105B00038N	PL DN RW UT CN	BR	462,000		
Project Cost:							462,000	0	0
SCOTT	1139	CR-1022	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER NS (CNO&TP)RR ON FIELDS ROAD (CR 1022) AT SCOTT/HARRISON CO LINE (105R00607N) (EBRP)	PL DN RW UT CN	BR	210,000		
Project Cost:							210,000	1,120,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
SCOTT	8907	KY-227	RECONSTRUCTION(O)	RECONSTRUCT KY-227 FROM MP 2.98 TO MP 3.34 TO IMPROVE HORIZONTAL CURVE. (16CCN)	PL				
					DN				
					RW				
					UT				
					CN	STP	200,000		
					Project Cost:		200,000	0	0
SCOTT	10005	KY-620	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-620 BRIDGE OVER ROGERS GAP CREEK. (105B00095N)	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR			665,000
					Project Cost:		0	210,000	665,000
SCOTT	10006	CS-1010	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF LEMONS MILL RD BRIDGE OVER NS (CNO&TP) SYSTEM. (105C00112N)	PL				
					DN	BR		350,000	
					RW				
					UT				
					CN	BR			1,295,000
					Project Cost:		0	350,000	1,295,000
SCOTT	10012	KY-1689	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1689 BRIDGE OVER LOCUST FORK. (105B00039N)	PL				
					DN	BR		133,000	
					RW				
					UT				
					CN	BR			308,000
					Project Cost:		0	133,000	308,000
SCOTT	10013	CR-1020	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF HINTON RD BRIDGE OVER NS (CNO&TP) SYSTEM. (105R00605N)	PL				
					DN	BR		238,000	
					RW				
					UT				
					CN	BR			511,000
					Project Cost:		0	238,000	511,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
SCOTT	20019	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 120.792 TO MILEPOINT 121.117	PL DN RW UT CN	PM			40,000
					Project Cost:		0	0	440,000
Total for SCOTT county					PL DN RW UT CN		210,000	931,000	40,000
					Total Amounts:		662,000	1,120,000	8,179,000
							872,000	2,051,000	8,219,000
SHELBY	65.4	I-64	MAJOR WIDENING(O)	WIDEN I-64 TO 6-LANES FROM 0.458 MILE EAST OF THE KY-55 INTERCHANGE TO THE KY-1790 UNDERPASS. (2006BOPC)	PL DN RW UT CN	NH		2,000,000	
					Project Cost:		0	2,000,000	2,000,000
SHELBY	8511	KY-53	RECONSTRUCTION(O)	WIDEN KY-53 TO FOUR LANES FROM I-64 TO US-60.(08CCN)(10CCN) (12CCR)(14CCR) (16CCR)	PL DN RW UT CN	STP		3,000,000	
					Project Cost:		0	3,000,000	0
SHELBY	8511.01	KY-53	PREFINANCD CONVRSN(O)	WIDEN KY-53 TO FOUR LANES FROM I-64 TO US-60.(08CCN)(10CCN) (12CCR)(14CCR) (16CCR)	PL DN RW UT CN	STP			7,700,000
					Project Cost:		0	0	7,700,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
SHELBY	10024	CR-1007	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF MOODY PIKE BRIDGE OVER FOX RUN CREEK. (106C00004N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			217,000
				Project Cost:			0	140,000	217,000
SHELBY	10025	CR-1009	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF CLORE JACKSON RD BRIDGE OVER FOX RUN CREEK. (106C00007N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			406,000
				Project Cost:			0	140,000	406,000
SHELBY	80004	KY 55X	AIR QUALITY(P)	FOUR RIGHT TURNING LANES AT THE INTERSECTION OF KY 55X AND KY 43 AND TWO LEFT TURNING LANES FROM KY 55X ONTO KY 43.	PL				
					DN	SPP		150,000	
					RW	SPP		22,000	
					UT	SPP		22,000	
					CN	SPP			500,000
				Project Cost:			0	194,000	500,000
Total for SHELBY county					PL				
					DN			2,430,000	
					RW			22,000	
					UT			22,000	2,000,000
					CN			3,000,000	8,823,000
					Total Amounts:		0	5,474,000	10,823,000
SIMPSON	8810	-0	NEW ROUTE(O)	GARVIN LANE EXTENSION TO HENDERSON INDUSTRIAL PARK. (14CCN)	PL				
					DN				
					RW				
					UT				
					CN	SPP		300,000	
				Project Cost:			0	300,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
SIMPSON	10007	KY-621	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-621 BRIDGE OVER SINKING CREEK. (107B00018N)	PL				
					DN	BR		157,500	
					RW				
					UT				
					CN	BR			332,500
					Project Cost:		0	157,500	332,500
SIMPSON	10008	CR-1126	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF PLEASANT HILL ROAD BRIDGE OVER MAYS BRANCH. (107C00011N)	PL				
					DN	BR		157,500	
					RW				
					UT				
					CN	BR			280,000
					Project Cost:		0	157,500	280,000
Total for SIMPSON county					PL				
					DN			315,000	
					RW				
					UT				
					CN			300,000	612,500
Total Amounts:						0	615,000	612,500	
SPENCER	1076	KY-1169	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE OVER BUCK CREEK ON KY 1169 75 FT EAST OF YODER TIPTON ROAD (CR 1142). (108B00022N)(EBRP)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			497,000
					Project Cost:		0	245,000	497,000
SPENCER	10013	KY-1169	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1169 BRIDGE OVER ELK CREEK. (108B00040N)	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR			490,000
					Project Cost:		0	210,000	490,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
SPENCER	10014	CR-1128	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF WASHBURN LANE BRIDGE OVER ELK CREEK. (108B00017N)(SD)	PL				
					DN	BR		192,500	
					RW				
					UT				
					CN	BR			248,500
					Project Cost:		0	192,500	248,500
SPENCER	10026	CR-1155	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF FEATHERBED HOLW RD BRIDGE OVER LITTLE PLUM CREEK. (108C00019N)	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR		567,000	
					Project Cost:		0	777,000	0
Total for SPENCER county					PL				
				DN			857,500		
				RW					
				UT					
				CN			567,000	1,235,500	
				Total Amounts:			0	1,424,500	1,235,500
TAYLOR	142.21	KY-555	PREFINANCD CONVRSN(O)	HEARTLAND PARKWAY: IMPROVE MOBILITY AND CONNECTIVITY VIA NEW CAMPBELLSVILLE BYPASS FROM KY-55 SOUTH OF CAMPBELLSVILLE TO KY-70. SECTION 1. (2010BOP)(14CCR)(16CCR)	PL				
					DN				
					RW				
					UT				
					CN	NH			7,600,000
					Project Cost:		0	0	7,600,000
TAYLOR	142.3	KY-555	NEW ROUTE(O)	HEARTLAND PARKWAY: IMPROVE MOBILITY AND CONNECTIVITY VIA NEW CAMPBELLSVILLE BYPASS FROM KY-70 TO US-68 EAST OF CAMPBELLSVILLE. SECTION 2. (2010BOP) (16CCR)	PL				
					DN				
					RW				
					UT	NH		1,000,000	
					CN				
					Project Cost:		0	1,000,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
TAYLOR	8920	KY-55	RECONSTRUCTION(O)	HEARTLAND PARKWAY: IMPROVE MOBILITY ON KY-55 FROM SOUTH OF THE TAYLOR/ADAIR COUNTY LINE TO THE CAMPBELLSVILLE BYPASS. (16CCN)	PL DN RW UT CN	NH NH NH		500,000 1,000,000	1,000,000
Project Cost:							0	1,500,000	1,000,000
TAYLOR	8920.01	KY-55	PREFINANCD CONVRSN(O)	HEARTLAND PARKWAY: IMPROVE MOBILITY ON KY-55 FROM SOUTH OF THE TAYLOR/ADAIR COUNTY LINE TO THE CAMPBELLSVILLE BYPASS. (16CCN)	PL DN RW UT CN	NH			7,000,000
Project Cost:							0	0	7,000,000
TAYLOR	10006	KY-323	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF WEST MAIN STREET BRIDGE OVER BUCKHORN CRK.. (109B00051N)	PL DN RW UT CN	BR BR		157,500	805,000
Project Cost:							0	157,500	805,000
TAYLOR	10007	CS-1241	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF SOUTH JACKSON ST BRIDGE OVER BUCKHORN CREEK. (109C00028N)	PL DN RW UT CN	BR BR		105,000	367,500
Project Cost:							0	105,000	367,500
Total for TAYLOR county					PL DN RW UT CN			262,500 500,000 2,000,000	16,772,500
Total Amounts:							0	2,762,500	16,772,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
TODD	10009	CR-1333	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF RATTLESNAKE RD BRIDGE OVER BUCK FORK. (110C00059N)	PL DN RW UT CN	BR		192,500	
					Project Cost:		0	192,500	294,000
TODD	10013	CR-1233	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF ROGER Q MILL RD. BRIDGE OVER RED RIVER W FORK BRANCH. (110C00061N)	PL DN RW UT CN	BR		157,500	
					Project Cost:		0	157,500	385,000
TODD	80001	US 79	AIR QUALITY(P)	US 79 WIDENING FROM MP 0 TO MP 3	PL DN RW UT CN	SPP		1,200,000	
					Project Cost:		0	1,200,000	0
Total for TODD county					PL DN RW UT CN			1,550,000	
					Total Amounts:		0	1,550,000	679,000
TRIGG	1160	CR-1380	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON CR-1380 (0.014) OVER DYERS CREEK 111C00027N	PL DN RW UT CN	BR		140,000	
					Project Cost:		0	140,000	381,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
TRIGG	2039	I-24	AM-BRIDGE (P)	OVERLAY BRIDGE DECK AND ADDRESS DEFICIENCIES OF EXPANSION JOINTS ON EASTBOUND I-24 BRIDGE OVER TRW RAILROAD EAST OF US 68 AT (MP 66.515). (111B00027R) (2012BOP)(SD)	PL				
					DN				
					RW				
					UT				
					CN	BR	250,000		
					Project Cost:		250,000	0	0
TRIGG	8951	KY-139	REALIGNMENT	REALIGN KY 124 APPROACH TO KY 139 TO IMPROVE INTERSECTION ANGLE AND SIGHT DISTANCE	PL				
					DN	SPP		200,000	
					RW	SPP			150,000
					UT	SPP			150,000
					CN	SPP			600,000
					Project Cost:		0	200,000	900,000
TRIGG	10005	KY-139	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-139 BRIDGE OVER BURGE CREEK. (111B00012N)	PL				
					DN	BR		280,000	
					RW				
					UT				
					CN	BR			997,500
					Project Cost:		0	280,000	997,500
Total for TRIGG county					PL				
					DN			620,000	
					RW				150,000
					UT				150,000
					CN		250,000		1,979,000
					Total Amounts:		250,000	620,000	2,279,000
UNION	1073	KY-359	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY-359 (MP 0.971) OVER LOST CREEK; .95 MI N.E. OF JCT US-60; 113B00006N (LET W/ 2-1074)	PL				
					DN				
					RW				
					UT				
					CN	BR	434,000		
					Project Cost:		434,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
UNION	1074	KY-359	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY-359 (MP 1.193) OVER SINKING CREEK; 1.1 MI N.E. OF JCT US-60; 113B00007N (LET W/ 2-1073)	PL DN RW UT CN	BR	511,000		
					Project Cost:		511,000	0	0
UNION	8955	US-60	RECONSTRUCTION(O)	IMPROVE ROADWAY TO REDUCE FLOODING ON US-60 FROM EAST OF HOUSE BRIDGE ROAD (CR-1027) TO UNION/HENDERSON COUNTY LINE. (16CCN)	PL DN RW UT CN	STP		300,000	
					Project Cost:		0	300,000	0
UNION	10017	KY-359	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-359 BRIDGE OVER LITTLE MASON CREEK. (113B00008N)	PL DN RW UT CN	BR		210,000	
					Project Cost:		0	210,000	682,500
UNION	10026	KY-492	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 492 BRIDGE OVER WASH CREEK. (113B00054N)	PL DN RW UT CN	BR		70,000	
					Project Cost:		0	70,000	350,000
Total for UNION county					PL DN RW UT CN		945,000	580,000	1,032,500
					Total Amounts:		945,000	580,000	1,032,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
WARREN	110	KY-185	RECONSTRUCTION(O)	IMPROVE KY-185 FROM NORTH OF THE JUNCTION WITH KY-263 NEAR RICHARDSVILLE TO THE BUTLER COUNTY LINE. (02CCR)(04CCR)(06CCR)(10CCR)(14CCR)	PL DN RW UT CN	STP			
Project Cost:							0	0	5,000,000
WARREN	322	KY-526	MINOR WIDENING(O)	IMPROVE KY-526 FROM NEAR KY-2630 TO US-31W. (2014BOP)	PL DN RW UT CN	SPP SPP SPP		70,000 180,000	
Project Cost:							0	250,000	160,000
WARREN	2042.11	WN-9007	SIGNING(P)	I-65 SPUR CORRIDOR SIGNING; EXISTING NATCHER PARKWAY FROM I-65 INTERCHANGE (EXIT 2) IN WARREN CO. EXTENDING NORTH TO THE US 60 INTERCHANGE IN DAVIESS CO. TO MEET INTERSTATE STANDARDS. (2016BOP)	PL DN RW UT CN	NH		2,150,000	
Project Cost:							0	2,150,000	0
WARREN	8702	US-231	MAJOR WIDENING(O)	IMPROVE US-231 FROM PASCOE BLVD. TO NORTH OF CAVE MILL ROAD. (12CCN)	PL DN RW UT CN	NH NH	2,500,000	2,600,000	
Project Cost:							2,500,000	2,600,000	0
WARREN	8818	KY-884	NEW ROUTE(O)	THREE SPRINGS ROAD EXTENSION FROM FLEALAND TO THE NATCHER PARKWAY INCLUDING BRIDGE OVER PARKWAY. (14CCN)	PL DN RW UT CN	SPP		4,000,000	
Project Cost:							0	4,000,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
WARREN	8857	US-31	MAJOR WIDENING(O)	IMPROVE US-31W FROM CAMPBELL LANE (US-231) TO UNIVERSITY BOULEVARD (US-231X). (14CCN)(16CCR)	PL DN RW UT CN	SPP SPP		1,750,000 2,000,000	
Project Cost:							0	3,750,000	0
WARREN	8904.1	US-31W	MINOR WIDENING(O)	WIDEN US-31W FROM PARK AVE. TO FAIRVIEW AVE MP 13.7-14.25	PL DN RW UT CN	STP STP STP		500,000	1,500,000 1,750,000
Project Cost:							0	500,000	3,250,000
WARREN	8905	US-31	RECONSTRUCTION(O)	IMPROVE MOBILITY AND REDUCE CONGESTION ON US-31W FROM US-68 TO MIZPAH. (16CCN)	PL DN RW UT CN	STP STP STP			800,000 900,000 400,000
Project Cost:							0	0	2,100,000
WARREN	10014	KY-2632	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF HAMMET HILL ROAD BRIDGE OVER SALT LICK CREEK. (114B00071N)	PL DN RW UT CN	BR		157,500	
Project Cost:							0	157,500	350,000
WARREN	10015	KY-1435	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1435 BRIDGE OVER GASPER RIVER. (114B00074N)	PL DN RW UT CN	BR		280,000	
Project Cost:							0	280,000	1,172,500

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
WARREN	20017	I-65	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-065 BOTH DIRECTION(S) FROM MILEPOINT 35.616 TO MILEPOINT 42.89	PL DN RW UT CN	PM		870,000	
					Project Cost:		0	8,700,000	0
WARREN	20018	WN-9007	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF WILLIAM H. NATCHER PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 0 TO MILEPOINT 2.473	PL DN RW UT CN	PM		200,000	
					Project Cost:		0	2,000,000	2,000,000
WARREN	20019	WN-9007	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF WILLIAM H. NATCHER PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 9.2 TO MILEPOINT 20.246	PL DN RW UT CN	PM			11,083,000
					Project Cost:		0	0	11,083,000
WARREN	80000	US-68	NEW ROUTE(O)	SOUTHWEST PARKWAY - NEW CONSTRUCTION FROM US-68 TO A CONNECTION AT KOBE WAY IN BOWLING GREEN	PL DN RW UT CN	SPP		200,000	
					Project Cost:		0	3,870,000	0
WARREN	80005	KY 242	AIR QUALITY(P)	ADD LEFT TURNING LANE ON KY 242 INTO RICHMOND ELEMENTARY SCHOOL AT MP 3.8 TO 3.95	PL DN RW UT CN	SPP		50,000	
					Project Cost:		0	50,000	125,000
									250,000
									200,000
					Project Cost:		0	50,000	575,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
WARREN	80051	KY-3225	SAFETY(P)	SAFETY IMPROVEMENTS AND REHABILITATION ON KY-3225. KEEP EXISTING FOOTPRINT BY REPLACING CURBLINE IN SAME LOCATION FROM MP 0 TO MP 1	PL DN RW UT CN	SPP			200,000
Project Cost:							0	0	200,000
Total for WARREN county					PL DN RW UT CN			2,257,500 6,100,000 2,380,000 17,320,000	1,000,000 2,525,000 2,400,000 19,965,500
Total Amounts:							2,500,000	28,057,500	25,890,500
WASHINGTON	396	US-150	RECONSTRUCTION(O)	IMPROVE US-150 FROM SPRINGFIELD TO BARDSTOWN.	PL DN RW UT CN	STP			3,000,000
Project Cost:							0	0	3,000,000
WASHINGTON	1094	KY-528	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON KY 528 (MP 1.437) OVER ROAD RUN BRANCH. (115B00043N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	1,302,000
WASHINGTON	8957	CR-1140	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON TEXAS-MACKVILLE ROAD (CR 1140) AT MP 0.349 OVER LONG LICK CREEK.(115C00039) (16CCN)(SD)	PL DN RW UT CN	BR			175,000
Project Cost:							0	0	175,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

County	Item No.	Route	Type of Work	Description	Phase	Fund	FY 2018	FY 2019	FY 2020
WASHINGTON	8958	US-150	SAFETY(P)	ADDRESS SAFETY, MOBILITY, AND GEOMETRIC ISSUES ALONG US 150 IN WASHINGTON COUNTY FROM 400 FEET WEST OF OLD FREDERICKTOWN-BARDSTOWN ROAD (KY 1872) TO 0.7 MILES EAST OF GRUNDY HOME	PL				
					DN	SPP		700,000	
					RW	SPP			900,000
					UT				
					CN				
					Project Cost:		0	700,000	900,000
WASHINGTON	10008	KY-55	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-55 BRIDGE OVER SEIBERT CREEK. (115B00026N)	PL				
					DN	BR		87,500	
					RW				
					UT				
					CN	BR			511,000
					Project Cost:		0	87,500	511,000
WASHINGTON	10015	KY-1920	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 1920 BRIDGE OVER DEEP CREEK. (115B00061N)	PL				
					DN	BR		87,500	
					RW				
					UT				
					CN	BR			262,500
					Project Cost:		0	87,500	262,500
Total for WASHINGTON county					PL				
				DN			1,050,000	3,000,000	
				RW				900,000	
				UT					
				CN				2,250,500	
				Total Amounts:			0	1,050,000	6,150,500
WAYNE	109.1	KY-90	SAFETY(P)	IMPROVE KY-90 FROM OLD MILL SPRINGS ROAD TO THE BRIDGE AT MP 19.5. (12CCR)(16CCR)	PL				
					DN				
					RW				
					UT				
					CN	SPP			4,220,000
					Project Cost:		0	0	4,220,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
WAYNE	1050	CR-1136	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BRIDGE ON CR-1136 (MP 0.225) OVER LITTLE SOUTH FORK RIVER; 0.25 MI SE OF JCT CR-5137; 116C00007N	PL DN RW UT CN	BR		455,000	
					Project Cost:		0	455,000	0
WAYNE	10005	CR-1016	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF DODSON HOLLOW RD BRIDGE OVER MEADOW CREEK. (116C00028N)	PL DN RW UT CN	BR		175,000	
					Project Cost:		0	175,000	466,000
WAYNE	80004	KY-92	PLANNING-OKI(O)	PRELIMINARY ENGINEERING AND ENVIRONMENTAL CORRIDOR STUDY FOR IMPROVING SAFETY AND MAKING KY-92 A SCENIC ROUTE FROM MONTICELLO TO STEARNS (FLEXIBLE SOLUTIONS)	PL DN RW UT CN	SPP			1,500,000
					Project Cost:		0	0	1,500,000
WAYNE	80005	KY 1275	AIR QUALITY(P)	IMPROVE CURVE ON KY 1275 AT KY 833/ROGERS GROVE ROAD AND RESURFACE FROM KY 1275 FROM BELL LANE TO KY 833/ROGERS GROVE ROAD	PL DN RW UT CN	SPP		60,000 3,500 60,000	
					Project Cost:		0	123,500	200,000
WAYNE	80006	KY 1275	AIR QUALITY(P)	WIDEN KY 1275 TO FOUR LANES WITH FOUR FOOT SHOULDERS AND FIVE FOOT SIDEWALKS FROM KY 90 TO BELL LANE	PL DN RW UT CN	SPP		490,000	
					Project Cost:		0	490,000	700,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Total for WAYNE county					PL				1,500,000
					DN			725,000	
					RW			3,500	200,000
					UT			60,000	500,000
					CN			455,000	4,886,000
					Total Amounts:		<u>0</u>	<u>1,243,500</u>	<u>7,086,000</u>
WEBSTER	228	KY-138	RECONSTRUCTION(O)	RECONSTRUCT BETWEEN KY 120 AND RR BRIDGE AT SLAUGHTERS TO ALLEVIATE FLOODING. (12CCR)	PL				
					DN				
					RW	SPP		100,000	
					UT	SPP		250,000	
					CN	SPP			1,200,000
					Project Cost:		<u>0</u>	<u>350,000</u>	<u>1,200,000</u>
WEBSTER	10018	KY-1835	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-1835 BRIDGE OVER SUGAR CAMP CREEK. (117B00023N)	PL				
					DN	BR		210,000	
					RW				
					UT				
					CN	BR			665,000
					Project Cost:		<u>0</u>	<u>210,000</u>	<u>665,000</u>
WEBSTER	10019	KY-132	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-132 BRIDGE OVER NALL DITCH. (117B00064N)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			1,102,500
					Project Cost:		<u>0</u>	<u>245,000</u>	<u>1,102,500</u>
Total for WEBSTER county					PL				
					DN			455,000	
					RW			100,000	
					UT			250,000	
					CN				2,967,500
					Total Amounts:		<u>0</u>	<u>805,000</u>	<u>2,967,500</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
WHITLEY	14.8	I-75	MAJOR WIDENING(O)	TENN. STATE LINE-LEXINGTON; WIDEN I-75 TO 8 LANES FROM MP 20.2 IN WHITLEY COUNTY TO MP 28.85, US-25E NORTH OF CORBIN (C-COST=\$87,500,000)	PL DN RW UT CN	NH NH NH		500,000 500,000	10,000,000
Project Cost:							0	1,000,000	10,000,000
WHITLEY	184.1	KY-92	RELOCATION(O)	RECONSTRUCT KY-92 FROM 500 FT WEST OF THE WHITLEY/MCCREARY COUNTY LINE TO 1200 FT EAST OF OLD JELICO CREEK ROAD. (SECTION 1)(14CCR)	PL DN RW UT CN	STP		10,000,000	
Project Cost:							0	10,000,000	0
WHITLEY	1105	I-75	AM-BRIDGE (P)	REHAB BRIDGE ON I-75 AT MILEPOINT 27.9 OVER LYNN CAMP CREEK (SR 34.1) (B00063R AND B00063L)(SD)	PL DN RW UT CN	BR	2,800,000		
Project Cost:							2,800,000	0	0
WHITLEY	10032	KY-904	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-904 BRIDGE OVER TYES FK OF BENNETTS BR. (118B00070N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	493,500
WHITLEY	10033	KY-779	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-779 BRIDGE OVER BROWNS CREEK. (118B00079N)	PL DN RW UT CN	BR		175,000	
Project Cost:							0	175,000	448,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
WHITLEY	10034	KY-204	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-204 BRIDGE OVER YOUNGS CREEK. (118B00084N)	PL				
					DN	BR		262,500	
					RW				
					UT				
					CN	BR			910,000
				Project Cost:			0	262,500	910,000
WHITLEY	10035	KY-2996	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-2996 BRIDGE OVER WOLF CREEK. (118B00101N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			455,000
				Project Cost:			0	175,000	455,000
WHITLEY	10036	CR-1275	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF BETHEL ROAD BRIDGE OVER PATTERSON CREEK. (118C00029N)	PL				
					DN	BR		140,000	
					RW				
					UT				
					CN	BR			315,000
				Project Cost:			0	140,000	315,000
WHITLEY	10037	CR-1461	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF RIVER ROAD BRIDGE OVER SANDERS CREEK. (118C00039N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			406,000
				Project Cost:			0	175,000	406,000
WHITLEY	10044	US-25	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF US 25W BRIDGE OVER CLEAR FORK RVR. (118B00041N)	PL				
					DN	BR		245,000	
					RW				
					UT				
					CN	BR			1,890,000
				Project Cost:			0	245,000	1,890,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
WHITLEY	10045	US-25	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF US 25W BRIDGE OVER CLEAR FORK RIVER. (118B00042N)	PL DN RW UT CN	BR		245,000	
Project Cost:							0	245,000	1,645,000
WHITLEY	20019	I-75	AM-PAVEMENT (INT)(P)	ADDRESS PAVEMENT CONDITION OF I-075 BOTH DIRECTION(S) FROM MILEPOINT 23.0 (25.26 NON-CARDINAL) TO MILEPOINT 28.872	PL DN RW UT CN	PM		340,000	
Project Cost:							0	3,400,000	0
WHITLEY	80001	KY 204	AIR QUALITY(P)	INSTALL GUARDRAIL ON KY 204 BETWEEN MP 10.7 AND 10.8	PL DN RW UT CN	SPP		15,000	
Project Cost:							0	15,000	0
Total for WHITLEY county					PL DN RW UT CN			1,932,500 500,000 500,000	
Total Amounts:							2,800,000	13,415,000	16,562,500
WOLFE	10009	KY-191	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY-191 BRIDGE OVER LACEY CREEK. (119B00001N)	PL DN RW UT CN	BR		150,000	
Project Cost:							0	150,000	564,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
WOLFE	10019	KY-2491	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF KY 2491 BRIDGE OVER SWANGO FORK. (119B00058N)	PL				
					DN	BR		175,000	
					RW				
					UT				
					CN	BR			525,000
				Project Cost:			0	175,000	525,000
WOLFE	20012	KY-9009	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF BERT T. COMBS MOUNTAIN PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 55.434 TO MILEPOINT 57.72	PL				
					DN	PM		90,000	
					RW				
					UT				
					CN	PM		900,000	
				Project Cost:			0	990,000	0
Total for WOLFE county					PL				
					DN			415,000	
					RW				
					UT				
					CN			900,000	1,089,000
				Total Amounts:			0	1,315,000	1,089,000
WOODFORD	8642	CR-1015	AM-BRIDGE (P)	ADDRESS DEFICIENCIES OF THE WEISENBURG MILL ROAD BRIDGE AT THE WOODFORD/SCOTT COUNTY LINE. (10CCN)(120C00006N)	PL				
					DN				
					RW				
					UT				
					CN	BR			966,000
				Project Cost:			0	0	966,000
WOODFORD	8905	US-60	CONGESTION MITIGTN(O)	ACCESS MANAGEMENT IMPROVEMENTS ON US 60 FROM LEXINGTON ROAD AT WOODFORD FEED TO MARSAILLES DRIVE (MP 9.38 TO MP 9.70)	PL				
					DN	SPP			400,000
					RW				
					UT				
					CN				
				Project Cost:			0	0	400,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
WOODFORD	20022	BG-9002	AM-PAVEMENT (PKY)(P)	ADDRESS PAVEMENT CONDITION OF MARTHA LAYNE COLLINS BLUEGRASS PARKWAY BOTH DIRECTION(S) FROM MILEPOINT 61.95 (62.05 NON-CARDINAL) TO MILEPOINT 70.70 (70.91 NON-CARDINAL)	PL DN RW UT CN	PM PM	 <u>0</u>	 700,000 7,000,000 <u>7,700,000</u>	 <u>0</u>
Project Cost:									
WOODFORD	20023	US-60	AM-PAVEMENT (PRI)(P)	ADDRESS PAVEMENT CONDITION OF AC PAVEMENT	PL DN RW UT CN	PM PM	 <u>0</u>	 <u>0</u>	 350,000 3,500,000 <u>3,850,000</u>
Project Cost:									
Total for WOODFORD county					PL DN RW UT CN		 <u>0</u>	 700,000 7,000,000 <u>7,700,000</u>	 750,000 4,466,000 <u>5,216,000</u>
Total Amounts:									
ZVARIOUS	65.15	-0	AM-BRIDGE (P)	BRIDGE REPAIRS ON VARIOUS BRIDGES FOR FY 2018. (2009BOPP)	PL DN RW UT CN	 BR	 2,000,000 <u>2,000,000</u>	 <u>0</u>	 <u>0</u>
Project Cost:									
ZVARIOUS	65.16	-0	AM-BRIDGE (P)	BRIDGE REPAIRS ON VARIOUS BRIDGES FOR FY 2019.	PL DN RW UT CN	 BR	 <u>0</u>	 2,000,000 <u>2,000,000</u>	 <u>0</u>
Project Cost:									

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	65.17	-0	AM-BRIDGE (P)	BRIDGE REPAIRS ON VARIOUS BRIDGES FOR FY 2020.	PL				
					DN				
					RW				
					UT				
					CN	BR			2,000,000
					Project Cost:		0	0	2,000,000
ZVARIOUS	66.13	-0	ITS(P)	ITS' ACTIVITIES ON VARIOUS NHS ROUTES IN KENTUCKY FOR FY 2018.	PL				
					DN				
					RW				
					UT				
					CN	NH	2,000,000		
					Project Cost:		2,000,000	0	0
ZVARIOUS	66.14	-0	ITS(P)	ITS' ACTIVITIES ON VARIOUS NHS ROUTES IN KENTUCKY FOR FY 2019.	PL				
					DN				
					RW				
					UT				
					CN	NH		2,000,000	
					Project Cost:		0	2,000,000	0
ZVARIOUS	66.15	-0	ITS(P)	ITS' ACTIVITIES ON VARIOUS NHS ROUTES IN KENTUCKY FOR FY 2020.	PL				
					DN				
					RW				
					UT				
					CN	NH			2,000,000
					Project Cost:		0	0	2,000,000
ZVARIOUS	195.14	-0	TRANSP ENHANCEMENT(P)	STATEWIDE TRANSPORTATION ENHANCEMENT FOR FY 2018. (98CCR)	PL				
					DN				
					RW				
					UT				
					CN	TE	12,800,000		
					Project Cost:		12,800,000	0	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	195.15	-0	TRANSP ENHANCEMENT(P)	STATEWIDE TRANSPORTATION ENHANCEMENT FOR FY 2019. (98CCR)	PL DN RW UT CN	TE		13,700,000	
					Project Cost:		0	13,700,000	0
ZVARIOUS	195.16	-0	TRANSP ENHANCEMENT(P)	STATEWIDE TRANSPORTATION ENHANCEMENT FOR FY 2020 (98CCR)	PL DN RW UT CN	TE			13,700,000
					Project Cost:		0	0	13,700,000
ZVARIOUS	219.16	-0	CONGESTION MITIGTN(O)	NON-ATTAINMENT AREAS STATEWIDE CMAQ FUNDED PROJECTS FOR FY 2018.	PL DN RW UT CN	CM	13,100,000		
					Project Cost:		13,100,000	0	0
ZVARIOUS	219.17	-0	CONGESTION MITIGTN(O)	NON-ATTAINMENT AREAS STATEWIDE CMAQ FUNDED PROJECTS FOR FY 2019.	PL DN RW UT CN	CM		13,100,000	
					Project Cost:		0	13,100,000	0
ZVARIOUS	219.18	-0	CONGESTION MITIGTN(O)	NON-ATTAINMENT AREAS STATEWIDE CMAQ FUNDED PROJECTS FOR FY 2020.	PL DN RW UT CN	CM			13,100,000
					Project Cost:		0	0	13,100,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	224.13	-0	AM-PAVEMENT (PRI)(P)	PAVEMENT REHAB ON STATE (NON RS) SYSTEM ROUTES IN KENTUCKY FOR FY 2019.	PL DN RW UT CN	PM		2,000,000	
					Project Cost:		0	2,000,000	0
ZVARIOUS	327.14	-0	BRIDGE INSPECTION(P)	STATEWIDE BRIDGE INSPECTION FOR FY 2018.	PL DN RW UT CN	BR	2,600,000		
					Project Cost:		2,600,000	0	0
ZVARIOUS	327.15	-0	BRIDGE INSPECTION(P)	STATEWIDE BRIDGE INSPECTION FOR FY 2019.	PL DN RW UT CN	BR		2,600,000	
					Project Cost:		0	2,600,000	0
ZVARIOUS	327.16	-0	BRIDGE INSPECTION(P)	STATEWIDE BRIDGE INSPECTION FOR FY 2020.	PL DN RW UT CN	BR			2,600,000
					Project Cost:		0	0	2,600,000
ZVARIOUS	337.14	-0	AM-PAVEMENT (INT)(P)	STATEWIDE I-STATE ROUTES FOR FY 2019. (14CCR)	PL DN RW UT CN	PM		2,000,000	
					Project Cost:		0	2,000,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	346.14	-0	BRIDGE INSPECTION(P)	STATEWIDE OFF-SYSTEM BRIDGE INSPECTION FOR FY 2018	PL DN RW UT CN	BR	1,100,000		
					Project Cost:		1,100,000	0	0
ZVARIOUS	346.15	-0	BRIDGE INSPECTION(P)	STATEWIDE OFF-SYSTEM BRIDGE INSPECTION FOR FY 2019.	PL DN RW UT CN	BR		1,100,000	
					Project Cost:		0	1,100,000	0
ZVARIOUS	346.16	-0	BRIDGE INSPECTION(P)	STATEWIDE OFF-SYSTEM BRIDGE INSPECTION FOR FY 2020.	PL DN RW UT CN	BR			1,100,000
					Project Cost:		0	0	1,100,000
ZVARIOUS	352.14	-0	SAFETY-RR PROTECTN(P)	RAIL PROTECTION ON VARIOUS ROUTES FOR FY 2018.	PL DN RW UT CN	RRP	3,600,000		
					Project Cost:		3,600,000	0	0
ZVARIOUS	352.15	-0	SAFETY-RR PROTECTN(P)	RAIL PROTECTION ON VARIOUS ROUTES FOR FY 2019.	PL DN RW UT CN	RRP		3,600,000	
					Project Cost:		0	3,600,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	352.16	-0	SAFETY-RR PROTECTN(P)	RAIL PROTECTION ON VARIOUS ROUTES FOR FY 2020.	PL				
					DN				
					RW				
					UT				
					CN	RRP			3,600,000
					Project Cost:		0	0	3,600,000
ZVARIOUS	369.09	-0	AM-PAVEMENT (PRI)(P)	PAVEMENT REHABILITATION FOR VARIOUS NHS ROUTES IN KENTUCKY FOR FY 2019.	PL				
					DN				
					RW				
					UT				
					CN	PM		2,000,000	
					Project Cost:		0	2,000,000	0
ZVARIOUS	388.08	-0	BRIDGE INSPECTION(P)	OHIO RIVER BRIDGES FRACTURE CRITICAL FOR FY 2018. (12CCR)	PL				
					DN				
					RW				
					UT				
					CN	BR	1,600,000		
					Project Cost:		1,600,000	0	0
ZVARIOUS	388.09	-0	BRIDGE INSPECTION(P)	OHIO RIVER BRIDGES FRACTURE CRITICAL FOR FY 2019.	PL				
					DN				
					RW				
					UT				
					CN	BR		1,600,000	
					Project Cost:		0	1,600,000	0
ZVARIOUS	388.1	-0	BRIDGE INSPECTION(P)	OHIO RIVER BRIDGES FRACTURE CRITICAL FOR FY 2020.	PL				
					DN				
					RW				
					UT				
					CN	BR			1,600,000
					Project Cost:		0	0	1,600,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	391.04	-0	DESIGN ENGINEERING(O)	STATEWIDE STP HIGHWAY PROJECT ACTIVITIES.	PL				
					DN	STP		2,000,000	
					RW				
					UT				
					CN				
					Project Cost:		<u>0</u>	<u>2,000,000</u>	<u>0</u>
ZVARIOUS	395.07	-0	AM-PAVEMENT (INT)(P)	PAVEMENT REPAIR AT INTERSECTIONS FOR VARIOUS ROADWAYS FOR FY 2019.(12CCR)	PL				
					DN				
					RW				
					UT				
					CN	PM		2,000,000	
					Project Cost:		<u>0</u>	<u>2,000,000</u>	<u>0</u>
ZVARIOUS	400.06	-0	LIGHTING(P)	UPGRADE NAVIGATIONAL LIGHTING FOR BRIDGES OVER MAJOR STREAMS AND WATERWAYS FOR FY 2019.	PL				
					DN				
					RW				
					UT				
					CN	SPP		1,000,000	
					Project Cost:		<u>0</u>	<u>1,000,000</u>	<u>0</u>
ZVARIOUS	510.03	-0	AM-BRIDGE (P)	HONORING BORDER STATES COMMITMENTS FOR EXISTING BRIDGES(CANNOT BE MOVED).	PL				
					DN				
					RW				
					UT				
					CN	BR		3,500,000	
					Project Cost:		<u>0</u>	<u>3,500,000</u>	<u>0</u>
ZVARIOUS	511.02	-0	LANDSLIDE REPAIR(P)	STATEWIDE CORRECTIONS OF ROCK FALL OR EMBANKMENT STABILIZATION FOR FY 2018.	PL				
					DN				
					RW				
					UT				
					CN	STP	5,000,000		
					Project Cost:		<u>5,000,000</u>	<u>0</u>	<u>0</u>

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	511.03	-0	LANDSLIDE REPAIR(P)	STATEWIDE CORRECTIONS OF ROCK FALL OR EMBANKMENT STABILIZATION FOR FY 2019.	PL DN RW UT CN	STP		2,000,000	
					Project Cost:		0	2,000,000	0
ZVARIOUS	511.04	-0	LANDSLIDE REPAIR(P)	STATEWIDE CORRECTIONS OF ROCK FALL OR EMBANKMENT STABILIZATION FOR FY 2020.	PL DN RW UT CN	STP			1,000,000
					Project Cost:		0	0	1,000,000
ZVARIOUS	514	-0	AM-BRIDGE (P)	PREVENTATIVE MAINTENANCE FOR BRIDGE STRUCTURES FOR FY 2019.	PL DN RW UT CN	BR		3,000,000	
					Project Cost:		0	3,000,000	0
ZVARIOUS	518	-0	LANDSLIDE REPAIR(P)	STATEWIDE CORRECTIONS OF ROCKFALL OR EMBANKMENT STABILIZATION ON NH ROUTES FOR FY 2019.	PL DN RW UT CN	NH		6,000,000	
					Project Cost:		0	6,000,000	0
ZVARIOUS	518.01	-0	LANDSLIDE REPAIR(P)	STATEWIDE CORRECTIONS OF ROCKFALL OR EMBANKMENT STABILIZATION ON NH ROUTES FOR FY 2020.	PL DN RW UT CN	NH			1,000,000
					Project Cost:		0	0	1,000,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	911.08	-0	SAFETY-HAZARD ELIM(P)	STATEWIDE SAFETY PROGRAM FOR FY 2019. (HSIP)	PL DN RW UT CN	SAF		38,500,000	
					Project Cost:		0	38,500,000	0
ZVARIOUS	911.09	-0	SAFETY-HAZARD ELIM(P)	STATEWIDE SAFETY PROGRAM FOR FY 2020. (HSIP)	PL DN RW UT CN	SAF			38,500,000
					Project Cost:		0	0	38,500,000
ZVARIOUS	1063.14	-0	BRIDGE INSPECTION(P)	STATEWIDE UNDERWATER BRIDGE INSPECTION FOR FY 2018	PL DN RW UT CN	BR	500,000		
					Project Cost:		500,000	0	0
ZVARIOUS	1063.15	-0	BRIDGE INSPECTION(P)	STATEWIDE UNDERWATER BRIDGE INSPECTION FOR FY 2019.	PL DN RW UT CN	BR		500,000	
					Project Cost:		0	500,000	0
ZVARIOUS	1063.16	-0	BRIDGE INSPECTION(P)	STATEWIDE UNDERWATER BRIDGE INSPECTION FOR FY 2020.	PL DN RW UT CN	BR			500,000
					Project Cost:		0	0	500,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	1071.06	-0	BRIDGE INSPECTION(P)	STATEWIDE PROGRAM TO FUND BRIDGE SCOUR COUNTER-MEASURES FOR STATE-MAINTAINED BRIDGES FOR FY 2018.	PL DN RW UT CN	SPP	1,500,000		
					Project Cost:		1,500,000	0	0
ZVARIOUS	1071.07	-0	BRIDGE INSPECTION(P)	STATEWIDE PROGRAM TO FUND BRIDGE SCOUR COUNTER-MEASURES FOR STATE-MAINTAINED BRIDGES FOR FY 2019.	PL DN RW UT CN	SPP		1,500,000	
					Project Cost:		0	1,500,000	0
ZVARIOUS	1071.08	-0	BRIDGE INSPECTION(P)	STATEWIDE PROGRAM TO FUND BRIDGE SCOUR COUNTER-MEASURES FOR STATE-MAINTAINED BRIDGES FOR FY 2020.	PL DN RW UT CN	SPP			1,500,000
					Project Cost:		0	0	1,500,000
ZVARIOUS	1074.07	-0	AM-BRIDGE (P)	STATEWIDE BRIDGE REPLACEMENT PROGRAM FOR FY 2019.	PL DN RW UT CN	BR		3,000,000	
					Project Cost:		0	3,000,000	0
ZVARIOUS	1084	-0	ECONOMIC DEVEL(O)	ECONOMIC DEVELOPMENT TRANSPORTATION IMPROVEMENT FACILITIES.	PL DN RW UT CN	SPP			1,000,000
					Project Cost:		0	0	1,000,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	2700.13	-0	AM-PAVEMENT (PRI)(P)	PAVEMENT PREVENTATIVE MAINTENANCE PROGRAM FOR FY 2019.	PL				
					DN				
					RW				
					UT				
					CN	PM		2,000,000	
					Project Cost:		0	2,000,000	0
ZVARIOUS	2700.14	-0	AM-PAVEMENT (PRI)(P)	PAVEMENT PREVENTATIVE MAINTENANCE PROGRAM FOR FY 2020.	PL				
					DN				
					RW				
					UT				
					CN	PM			2,000,000
					Project Cost:		0	0	2,000,000
ZVARIOUS	3011	-0	SAFETY(P)	AMERICANS WITH DISABILITIES ACT (ADA) TRANSITION PLAN IMPLEMENTATION PROJECTS.	PL				
					DN				
					RW				
					UT				
					CN	STP		1,000,000	
					Project Cost:		0	1,000,000	0
ZVARIOUS	3011.01	-0	SAFETY(P)	AMERICANS WITH DISABILITIES ACT (ADA) TRANSITION PLAN IMPLEMENTATION PROJECTS.	PL				
					DN				
					RW				
					UT				
					CN	STP			1,000,000
					Project Cost:		0	0	1,000,000
ZVARIOUS	8500.15	-0	SAFETY(P)	SCHOOL TURN LANE PROJECTS. (08CCN) (12CCR)	PL				
					DN				
					RW				
					UT				
					CN	SPP		4,700,000	
					Project Cost:		0	4,700,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	9050.08	-0	MAJOR WIDENING(O)	GARVEE BOND DEBT SERVICE FOR I-65; I-75; AND I-64 FOR FY 2018. (JM03-FD53 "IM" COMPONENT)	PL DN RW UT CN	NH	44,500,000		
					Project Cost:		44,500,000	0	0
ZVARIOUS	9050.1	-0	MAJOR WIDENING(O)	GARVEE BOND DEBT SERVICE FOR I-65; I-75; AND I-64 FOR FY 2019. (JM03-FD53 "IM" COMPONENT)	PL DN RW UT CN	NH		44,500,000	
					Project Cost:		0	44,500,000	0
ZVARIOUS	9068.03	US-68	AM-BRIDGE (P)	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (NH) FOR FY 2018. (079B00023N, 111B00020N)	PL DN RW UT CN	NH	9,100,000		
					Project Cost:		9,100,000	0	0
ZVARIOUS	9068.05	US-68	AM-BRIDGE (P)	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (NH) FOR FY 2019. (079B00023N, 111B00020N)	PL DN RW UT CN	NH		9,100,000	
					Project Cost:		0	9,100,000	0
ZVARIOUS	9068.61	US-68	AM-BRIDGE (P)	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (NH) FOR FY 2020. (12CCR)	PL DN RW UT CN	NH			9,100,000
					Project Cost:		0	0	9,100,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	9068.64	US-68	AM-BRIDGE (P)	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (STP) FOR FY 2018.	PL DN RW UT CN	STP	9,100,000		
Project Cost:							9,100,000	0	0
ZVARIOUS	9068.65	US-68	AM-BRIDGE (P)	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (STP) FOR FY 2019.	PL DN RW UT CN	STP		9,100,000	
Project Cost:							0	9,100,000	0
ZVARIOUS	9068.66	US-68	AM-BRIDGE (P)	US 68/KY 80 LAKE BARKLEY AND KENTUCKY LAKE GARVEE BOND DEBT SERVICE (STP) FOR FY 2020.	PL DN RW UT CN	STP			9,100,000
Project Cost:							0	0	9,100,000
ZVARIOUS	9659.18	-0	RECONSTRUCTION(O)	GARVEE BOND DEBT SERVICE FOR LOUISVILLE BRIDGES PROJECT FOR FY 2018. (JZ1-FD53 "NH" COMPONENT)	PL DN RW UT CN	NH	34,300,000		
Project Cost:							34,300,000	0	0
ZVARIOUS	9659.21	-0	RECONSTRUCTION(O)	GARVEE BOND DEBT SERVICE FOR LOUISVILLE BRIDGES PROJECT FOR FY 2019. (JZ1-FD53 "NH" COMPONENT)	PL DN RW UT CN	NH		34,300,000	
Project Cost:							0	34,300,000	0

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

<u>County</u>	<u>Item No.</u>	<u>Route</u>	<u>Type of Work</u>	<u>Description</u>	<u>Phase</u>	<u>Fund</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
ZVARIOUS	9659.23	-0	RECONSTRUCTION(O)	GARVEE BOND DEBT SERVICE FOR LOUISVILLE BRIDGES PROJECT FOR FY 2020. (JZ1-FD53 "NH" COMPONENT)	PL DN RW UT CN	NH			62,800,000
					Project Cost:		0	0	62,800,000
Total for ZVARIOUS county					PL DN RW UT CN			2,000,000	
							142,800,000	211,400,000	167,200,000
					Total Amounts:		142,800,000	213,400,000	167,200,000

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

Biennium Fund Summary

Fund	Description	FY 2019	FY 2020	Total
BR	FEDERAL BRIDGE REPLACEMENT	178,066,500	315,800,085	493,866,585
BR2	BRAC BOND PROJECTS SECOND PROGRAM	4,950,000	14,500,000	19,450,000
CM	FEDERAL CONGESTION MITIGATION FUNDS	13,100,000	13,100,000	26,200,000
NH	FEDERAL NATIONAL HIGHWAY SYSTEM FUNDS	247,370,000	226,060,000	473,430,000
PM	PAVEMENT MANAGEMENT	180,456,000	176,043,000	356,499,000
RRP	SAFETY-RAILROAD PROTECTION	3,600,000	3,600,000	7,200,000
RRS	SAFETY-RAILROAD SEPARATION	0	3,100,000	3,100,000
SAF	FEDERAL SAFETY FUNDS	38,500,000	38,500,000	77,000,000
SAH	FEDERAL STP FUNDS DEDICATED TO ASHLAND	1,724,000	1,200,000	2,924,000
SHN	FEDERAL STP FUNDS DEDICATED TO HENDERSON	1,800,000	700,000	2,500,000
SLO	FEDERAL STP FUNDS DEDICATED TO LOUISVILLE	53,511,745	15,311,854	68,823,599
SLX	FEDERAL STP FUNDS DEDICATED TO LEXINGTON	21,656,000	8,956,000	30,612,000
SNK	FEDERAL STP FUNDS DEDICATED TO NORTHERN KENTUCKY	27,157,409	13,757,200	40,914,609
SPP	STATE CONSTRUCTION HIGH PRIORITY PROJECTS	123,907,800	162,970,400	286,878,200
STP	FEDERAL STATEWIDE TRANSPORTATION PROGRAM FUNDS	94,460,000	85,840,000	180,300,000
TE	FEDERAL TRANSPORTATION ENHANCEMENT PROGRAM FUNDS	14,900,000	13,700,000	28,600,000
Total Amount		1,005,159,454	1,093,138,539	2,098,297,993

2018-2020 BIENNIAL HIGHWAY CONSTRUCTION PLAN

Fund Summary

Fund	Description	FY 2018	FY 2019	FY 2020	Total
BR	FEDERAL BRIDGE REPLACEMENT	54,023,500	178,066,500	315,800,085	547,890,085
BR2	BRAC BOND PROJECTS SECOND PROGRAM	0	4,950,000	14,500,000	19,450,000
CM	FEDERAL CONGESTION MITIGATION FUNDS	13,100,000	13,100,000	13,100,000	39,300,000
FH	FEDERAL FOREST HIGHWAY FUNDS	8,100,000	0	0	8,100,000
HPP	HIGH PRIORITY PROJECTS	9,924,170	0	0	9,924,170
KYD	FEDERAL DEMONSTRATION FUNDS ALLOCATED TO KENTUCKY	1,771,005	0	0	1,771,005
NH	FEDERAL NATIONAL HIGHWAY SYSTEM FUNDS	235,170,000	247,370,000	226,060,000	708,600,000
PM	PAVEMENT MANAGEMENT	0	180,456,000	176,043,000	356,499,000
RRP	SAFETY-RAILROAD PROTECTION	3,600,000	3,600,000	3,600,000	10,800,000
RRS	SAFETY-RAILROAD SEPARATION	0	0	3,100,000	3,100,000
SAF	FEDERAL SAFETY FUNDS	0	38,500,000	38,500,000	77,000,000
SAH	FEDERAL STP FUNDS DEDICATED TO ASHLAND	6,867,000	1,724,000	1,200,000	9,791,000
SHN	FEDERAL STP FUNDS DEDICATED TO HENDERSON	3,460,000	1,800,000	700,000	5,960,000
SLO	FEDERAL STP FUNDS DEDICATED TO LOUISVILLE	65,396,815	53,511,745	15,311,854	134,220,414
SLX	FEDERAL STP FUNDS DEDICATED TO LEXINGTON	16,367,000	21,656,000	8,956,000	46,979,000
SNK	FEDERAL STP FUNDS DEDICATED TO NORTHERN KENTUCKY	57,934,140	27,157,409	13,757,200	98,848,749
SPP	STATE CONSTRUCTION HIGH PRIORITY PROJECTS	54,210,000	123,907,800	162,970,400	341,088,200
STP	FEDERAL STATEWIDE TRANSPORTATION PROGRAM FUNDS	42,780,000	94,460,000	85,840,000	223,080,000
TE	FEDERAL TRANSPORTATION ENHANCEMENT PROGRAM FUNDS	12,800,000	14,900,000	13,700,000	41,400,000
Totals		585,503,630	1,005,159,454	1,093,138,539	2,683,801,623

CHAPTER 168

(HB 324)

AN ACT relating to trespass.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 511 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Key infrastructure assets" means:*

1. *Any critical node of a system used in the production or generation of electrical energy;*
2. *A petroleum refinery;*
3. *A rubber or hazardous chemical manufacturing facility;*
4. *A petroleum or hazardous chemical storage facility or terminal;*
5. *Natural gas processing, fractionation, stabilization, and compressor station facilities, as well as above-ground pipelines and related facilities;*
6. *Railroad yards and railroad tunnel portals;*
7. *A drinking water collection, treatment, or storage facility;*
8. *A facility used for research, development, design, production, delivery, or maintenance of military weapons systems, subsystems, and components or parts to meet military requirements of the United States; or*
9. *A wireless communications facility, including the tower, antennae, support structures and all associated ground-based equipment, and a telecommunications central switching office; and*

(b) *"Unmanned aircraft system" means an aircraft that is operated without the possibility of direct human interaction from within or on the aircraft and includes everything that is on board or otherwise attached to the aircraft and all associated elements, including communication links and the components that control the small unmanned aircraft, that are required for the safe and efficient operation of the unmanned aircraft in the national airspace system.*

(2) (a) *A person commits the offense of trespass upon key infrastructure assets if he or she knowingly enters or remains unlawfully in or upon real property on which key infrastructure assets are located.*

(b) *A person commits the offense of trespass upon key infrastructure assets if he or she knowingly uses, or retains or authorizes a person to use, an unmanned aircraft system to fly above real property on which key infrastructure assets are located with the intent to cause harm or damage to or conduct surveillance of the key infrastructure asset without the prior consent of the owner, tenant, or lessee of the real property.*

(3) *Trespass upon key infrastructure assets is a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense.*

(4) *This section does not apply to:*

(a) *An unmanned aircraft system used by the federal government or by the Commonwealth, or by a person acting pursuant to a contract with the federal government or the Commonwealth;*

(b) *An unmanned aircraft system used by:*

1. *The owner of the real property or key infrastructure asset;*
2. *A person under a valid lease, servitude, right-of-way, right of use, permit, license, or other right granted by the owner of the real property or key infrastructure asset; or*
3. *A third party who is retained or authorized by a person specified in subparagraph 1. or 2. of this paragraph;*

- (c) *An unmanned aircraft system used by a law enforcement agency, emergency medical service agency, hazardous material response team, disaster management agency, or other emergency management agency for the purpose of incident command, area reconnaissance, personnel and equipment deployment monitoring, training, or a related purpose;*
- (d) *Operation of an unmanned aircraft system by a person or entity for a commercial purpose in compliance with applicable Federal Aviation Administration authorization, regulations, or exemptions.*
- (e) *A satellite orbiting the earth;*
- (f) *An unmanned aircraft system used by an insurance company or a person acting on behalf of an insurance company for purposes of underwriting an insurance risk or investigating damage to insured property; or*
- (g) *An unmanned aircraft system used strictly in accordance with an order of a court of competent jurisdiction.*

Signed by Governor April 13, 2018.

CHAPTER 169

(HB 200)

AN ACT relating to appropriations measures providing funding and establishing conditions for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

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

➔Section 1. The State/Executive Branch Budget is as follows:

PART I

OPERATING BUDGET

(1) **Funds Appropriations:** There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, Federal Funds accounts, or Bond Funds accounts for the fiscal year beginning July 1, 2017, and ending June 30, 2018, for the fiscal year beginning July 1, 2018, and ending June 30, 2019, and for the fiscal year beginning July 1, 2019, and ending June 30, 2020, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

(2) **Tobacco Settlement Funds:** Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, of this Act are representative of the amounts provided in Part X, Phase I Tobacco Settlement, of this Act and are not to be appropriated in duplication.

A. GENERAL GOVERNMENT

Budget Units

1. OFFICE OF THE GOVERNOR

	2018-19	2019-20
General Fund (Tobacco)	2,050,000	2,050,000
General Fund	6,170,900	6,258,000
Restricted Funds	659,500	659,500
Federal Funds	262,000	175,000

TOTAL	9,142,400	9,142,500
-------	-----------	-----------

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$2,050,000 in each fiscal year for the Early Childhood Advisory Council.

2. OFFICE OF STATE BUDGET DIRECTOR

	2018-19	2019-20
General Fund	3,486,400	3,533,700
Restricted Funds	347,900	383,600
TOTAL	3,834,300	3,917,300

(1) **State Planning Fund:** Notwithstanding KRS 147.110, no General Fund is provided for the State Planning Fund in the Office of State Budget Director.

3. HOMELAND SECURITY

	2018-19	2019-20
General Fund	251,900	255,200
Restricted Funds	1,352,000	1,361,800
Federal Funds	4,085,100	4,096,200
Road Fund	307,900	312,000
TOTAL	5,996,900	6,025,200

4. DEPARTMENT OF VETERANS' AFFAIRS

	2018-19	2019-20
General Fund	25,098,600	25,810,200
Restricted Funds	78,959,900	78,964,500
TOTAL	104,058,500	104,774,700

(1) **Weekend and Holiday Premium Pay Incentive:** The Kentucky Veterans' Centers are authorized to continue the weekend and holiday premium pay incentive for the 2018-2020 fiscal biennium.

(2) **Congressional Medal of Honor Recipients - Travel and Per Diem:** The Commissioner of the Department of Veterans' Affairs may approve travel and per diem expenses incurred when Kentucky residents who have been awarded the Congressional Medal of Honor attend veterans, military, or memorial events in the Commonwealth of Kentucky.

(3) **Brain Injury Alliance of Kentucky and the Epilepsy Foundation of Kentuckiana Funding:** Included in the above General Fund appropriation is \$93,700 in each fiscal year for grants to the Brain Injury Alliance of Kentucky and \$93,700 in each fiscal year for grants to the Epilepsy Foundation of Kentuckiana to be used solely for the purpose of working with veterans who have experienced brain trauma and their families.

(4) **Veterans' Service Organization Funding:** Included in the above General Fund appropriation is \$187,500 in each fiscal year for grants to Veterans' Service Organization programs.

(5) **Debt Service - Bowling Green Veterans' Center:** If any debt service is required for the issuance of bonds for the Construct Bowling Green Veterans' Center capital project reauthorized in Part II, Capital Projects Budget, of this Act, it shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). No bonds shall be sold for this project until it has been approved by the United States Department of Veterans Affairs and the Commonwealth has been notified by the United States Department of Veterans Affairs that Federal Funds are available to support this construction.

(6) **State Veterans Nursing Home:** It is the desire of the General Assembly that any future beds allocated from the United States Department of Veterans Affairs or reallocated from the Kentucky Department of Veterans' Affairs be dedicated to a state veterans nursing home in Magoffin County to serve that area.

5. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2018-19	2019-20
General Fund (Tobacco)	40,553,300	38,379,300
Restricted Funds	100,000	100,000
TOTAL	40,653,300	38,479,300

(1) **Tobacco Settlement Funds - Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of \$20,000 annually may provide up to four percent of the individual county allocation, not to exceed \$15,000 annually, to the county council in that county for administrative costs.

(2) **Counties Account:** Notwithstanding KRS 248.703(1), included in the above General Fund (Tobacco) appropriation is \$16,869,000 in fiscal year 2018-2019 and \$15,841,300 in fiscal year 2019-2020 for the counties account as specified in KRS 248.703(1)(a).

(3) **Directive for Fiscal Year 2018-2019 and Fiscal Year 2019-2020 General Fund (Tobacco) Appropriations:** Notwithstanding KRS 248.709 and 248.727, included in the above General Fund (Tobacco) appropriation is \$7,000,000 in fiscal year 2018-2019 and \$6,000,000 in fiscal year 2019-2020 to be used for capital improvements to the agricultural event space and other facilities at the Kentucky State Fair and Exposition Center. The grant process for the proposed projects shall require the State Fair Board to submit an application to the Agricultural Development Board. The application shall be subject to the review, approval, and evaluation criteria established by the Agricultural Development Board. Any grants approved by the Agricultural Development Board to the State Fair Board shall not require a match by the applicant. The highest priority and the purpose of grants approved shall be for projects related to deferred maintenance, renovation, and remodeling of event space primarily used for animal and other agricultural-related events or the demolition of unusable facilities. New construction projects dedicated primarily to agricultural events at the Kentucky State Fair and Exposition Center may be considered by the Agricultural Development Board if there are unused appropriations remaining after grant funds have been approved for maintenance, renovation, remodeling, and demolition projects, which shall have the highest priority among the projects considered. If the total grant funds awarded to the State Fair Board are less than the General Fund (Tobacco) appropriation of \$13,000,000 reserved in the 2018-2020 fiscal biennium for the State Fair Board, any uncommitted or unobligated appropriations shall not be approved by the Agricultural Development Board for any other project until appropriated by the General Assembly.

6. KENTUCKY INFRASTRUCTURE AUTHORITY

	2018-19	2019-20
General Fund	1,398,800	1,914,800
Restricted Funds	46,560,800	51,668,900
Federal Funds	29,381,900	29,381,900
TOTAL	77,341,500	82,965,600

(1) **Debt Service:** Included in the above General Fund appropriation is \$258,000 in fiscal year 2018-2019 and \$774,000 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

7. MILITARY AFFAIRS

	2018-19	2019-20
General Fund	15,036,400	15,256,400
Restricted Funds	38,405,600	38,642,500
Federal Funds	46,015,700	46,329,900
TOTAL	99,457,700	100,228,800

(1) **Kentucky National Guard:** Included in the above General Fund appropriation is \$4,500,000 in each fiscal year to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's declaration of emergency pursuant to KRS Chapter 39A, and the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. Any portion of the \$4,500,000 not expended shall lapse to the General Fund at the end of each fiscal year. In the event that costs for Governor-declared emergencies or the Governor's call of the Kentucky National Guard for

emergencies or exigent situations exceed \$4,500,000 annually, the costs shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) Disaster or Emergency Aid Funds: There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid for which the state would be eligible in the event of a presidentially declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(3) Debt Service: Included in the above General Fund appropriation is \$11,000 in fiscal year 2018-2019 and \$101,000 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(4) Residential Youth-at-Risk Program: Included in the above General Fund appropriation is \$335,000 in each fiscal year to support the Bluegrass Challenge Academy and \$335,000 in each fiscal year to support the Appalachian Youth Challenge Academy.

8. COMMISSION ON HUMAN RIGHTS

	2018-19	2019-20
General Fund	1,874,800	2,005,600
Restricted Funds	10,000	10,000
Federal Funds	245,000	245,000
TOTAL	2,129,800	2,260,600

9. COMMISSION ON WOMEN

	2018-19	2019-20
--	---------	---------

(1) Commission on Women: Notwithstanding KRS 12.020, 12.023, 14.260, 15A.190, 214.554, and 344.510 to 344.530, no General Fund is provided for the Commission on Women.

10. DEPARTMENT FOR LOCAL GOVERNMENT

	2018-19	2019-20
General Fund	9,207,400	9,326,700
Restricted Funds	888,200	888,700
Federal Funds	29,711,300	29,727,500
TOTAL	39,806,900	39,942,900

(1) Area Development District Funding: Included in the above General Fund appropriation is \$1,984,000 in each fiscal year for the Joint Funding Administration Program in support of the Area Development Districts.

(2) Mary Kendall Homes and Gateway Juvenile Diversion: Included in the above General Fund appropriation is \$257,800 in each fiscal year for the support of the Mary Kendall Homes and \$257,800 in each fiscal year for the support of Gateway Juvenile Diversion.

(3) Allocation of Area Development District Funding: The Department for Local Government shall allocate Area Development District Funding appropriated to the Joint Funding Administration Program to the area development districts in accordance with the following formula:

- (a) 70 percent of the total appropriation shall be allocated equally among all area development districts;
- (b) 20 percent of the total appropriation shall be allocated based upon each area development district's proportionate share of total state population, as identified by the 2010 United States Census; and
- (c) Ten percent of the total appropriation shall be allocated based upon each area development district's proportionate share of total incorporated cities and counties, as identified by the records of the Kentucky Secretary of State's Land Office at the time of the allocation.

The Department for Local Government shall, upon the unanimous written direction of all Area Development Districts, reduce the allocation based upon proportionate share of total incorporated cities and counties and instead

allocate those funds to provide additional nonfederal dollars to area development districts for the purpose of maximizing federal awards.

11. LOCAL GOVERNMENT ECONOMIC ASSISTANCE FUND

	2018-19	2019-20
General Fund	23,379,700	24,682,800

(1) **Additional Coal Severance Transfer:** Notwithstanding KRS 42.450 to 42.495, an additional amount equal to \$808,200 in fiscal year 2018-2019 and \$2,500,000 in fiscal year 2019-2020 shall be transferred from the Local Government Economic Development Fund to the Local Government Economic Assistance Fund established by KRS 42.450 to be allocated in accordance with KRS 42.470(1).

(2) **Jefferson County Mineral Severance:** Notwithstanding KRS 42.450 to 42.495, all funds distributed to Jefferson County in accordance with KRS 42.470(2)(a) shall be used by the Jefferson County Fiscal Court for the Waterfront Botanical Gardens.

12. LOCAL GOVERNMENT ECONOMIC DEVELOPMENT FUND

	2018-19	2019-20
General Fund	3,150,000	4,150,000

(1) **Coal Severance Tax Collections Calculations and Transfers:** The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director.

(a) Notwithstanding KRS 42.450 to 42.495, coal severance tax collections during the 2018-2020 fiscal biennium shall first be allocated to the following programs or purposes on a quarterly basis:

1. **Kentucky Infrastructure Authority:** An annual appropriation of \$370,000 in each fiscal year is appropriated as General Fund moneys to the Kentucky Infrastructure Authority budget unit for Local Government Economic Development Fund project administration costs;

2. **Department for Local Government:** An annual appropriation of \$669,700 in each fiscal year is appropriated as General Fund moneys to the Department for Local Government budget unit for Local Government Economic Development Fund project administration costs;

3. **Debt Service:** An annual appropriation of 100 percent of the debt service necessary to support bonds authorized in 2003 Ky. Acts ch. 156, 2005 Ky. Acts ch. 173, 2006 Ky. Acts ch. 252, 2008 Ky. Acts ch. 127, and 2010 (1st Extra. Sess.) Ky. Acts ch. 1, in the amount of \$28,955,100 in fiscal year 2018-2019 and \$27,456,700 in fiscal year 2019-2020 is appropriated for that purpose;

4. **Osteopathic Medicine Scholarship Program:** Notwithstanding KRS 164.7891(11)(b), no transfers shall be made to the Osteopathic Medicine Scholarship Program within the Kentucky Higher Education Assistance Authority; and

5. **Pharmacy Scholarships:** Notwithstanding KRS 164.7890(11)(c), no transfers shall be made to the Coal County Pharmacy Scholarship Program within the Kentucky Higher Education Assistance Authority.

(b) Notwithstanding KRS 42.450 to 42.495, an amount equal to 15 percent in each fiscal year of the remaining severance and processing taxes on coal collected annually shall be transferred from the General Fund to the Local Government Economic Assistance Fund on a quarterly basis.

(c) Notwithstanding KRS 42.450 to 42.495, an amount equal to \$15,896,000 in fiscal year 2018-2019 and \$7,500,000 in fiscal year 2019-2020 of the severance and processing taxes on coal collected annually shall be transferred from the General Fund to the Local Government Economic Development Fund.

(2) **Use of Local Government Economic Development Fund:** Notwithstanding KRS 42.450 to 42.495, transfers made to the Local Government Economic Development Fund shall be used for the following purposes:

(a) An amount equal to \$3,150,000 in fiscal year 2018-2019 and \$4,150,000 in fiscal year 2019-2020 shall be transferred, on a quarterly basis, to the Kentucky Coal Fields Endowment Authority;

(b) An amount equal to \$1,000,000 shall be transferred in fiscal year 2018-2019, on a quarterly basis, to the University of Kentucky budget unit for the Robinson Scholars Program;

(c) An amount equal to \$500,000 shall be transferred in each fiscal year, on a quarterly basis, to the Justice Administration budget unit for Operation UNITE in relation to the Federal Task Force on Drug Abuse;

(d) An amount equal to \$350,000 shall be transferred in each fiscal year, on a quarterly basis, to the University of Kentucky budget unit for the Mining Engineering Scholarship Program;

(e) An amount equal to \$10,087,800 shall be transferred in fiscal year 2018-2019, to the Department of Education for purposes specified in Part I, C., 1., (20) of this Act; and

(f) An amount equal to \$808,200 in fiscal year 2018-2019 and an amount equal to \$2,500,000 in fiscal year 2019-2020 shall be transferred, on a quarterly basis to the Local Government Economic Assistance Fund.

13. AREA DEVELOPMENT FUND

	2018-19	2019-20
(1) Area Development Fund: Notwithstanding KRS 42.345 to 42.370, and 48.185, or any statute to the contrary, no funding is provided for the Area Development Fund.		

(2) **Area Development District Flexibility:** Notwithstanding KRS 42.350(2) and provided that sufficient funds are maintained in the Joint Funding Agreement Program to meet the match requirements for the Economic Development Administration grants, Community Development Block Grants, Appalachian Regional Commission grants, or any federal program where the Joint Funding Agreement funds are utilized to meet nonfederal match requirements, an area development district with authorization from its Board of Directors may request approval to transfer funding between the Area Development Fund and the Joint Funding Agreement Program from the Commissioner of the Department for Local Government. Joint Funding Agreement grants from the Community Economic Development Block Grant Program and the Appalachian Regional Commission shall be matched on a dollar-for-dollar basis.

14. EXECUTIVE BRANCH ETHICS COMMISSION

	2018-19	2019-20
General Fund	548,900	555,700
Restricted Funds	335,000	335,000
TOTAL	883,900	890,700

(1) **Use of Restricted Funds:** All penalties collected or received by the Executive Branch Ethics Commission shall be deposited in the State Treasury and credited to a trust and agency fund account to the credit of the Commission to be used by the Commission for the cost of conducting administrative hearings pursuant to KRS Chapter 13B. Notwithstanding KRS 45.229, these funds shall not lapse and shall carry forward.

15. SECRETARY OF STATE

	2018-19	2019-20
General Fund	2,204,100	2,252,500
Restricted Funds	2,688,000	2,681,200
Federal Funds	221,400	221,400
TOTAL	5,113,500	5,155,100

(1) **Use of Restricted Funds:** Notwithstanding KRS 14.140(1) and (3), the above Restricted Funds may be used for the continuation of current activities within the Office of the Secretary of State.

16. BOARD OF ELECTIONS

	2018-19	2019-20
General Fund	4,216,200	4,231,100
Restricted Funds	246,000	246,000
Federal Funds	4,045,000	2,926,200
TOTAL	8,507,200	7,403,300

(1) **Cost of Elections:** (a) Notwithstanding KRS 116.145, the State Board of Elections shall set a rate for the fee for new voter registration paid to the county clerks within the available appropriated resources. The State Board of Elections shall also set a fixed rate for the expenses outlined in KRS 117.343 within the available appropriated resources. Notwithstanding KRS 117.345(2), the State Board of Elections shall set a rate for the

expenses outlined in KRS 117.345(2) for precincts with a voting machine within the available appropriated resources, not to exceed \$300 per precinct per election. These rates and all assumptions as to the number of precincts, registered voters, and new voter registrations shall be communicated to the Secretary of the Finance and Administration Cabinet and the State Budget Director by November 1, 2018, for fiscal year 2018-2019 and by November 1, 2019, for fiscal year 2019-2020.

(b) Costs associated with special elections, KRS 117.345(2) costs associated with additional precincts with a voting machine, KRS 117.343 costs for additional registered voters, and KRS 116.145 costs for additional new registered voters shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). Any reimbursements authorized as a necessary government expense according to the above provisions shall be at the same rates as those established by the State Board of Elections as provided in paragraph (a) of this subsection.

17. REGISTRY OF ELECTION FINANCE

	2018-19	2019-20
General Fund	1,511,000	1,529,400

18. ATTORNEY GENERAL

	2018-19	2019-20
General Fund	12,081,100	12,239,600
Restricted Funds	18,781,200	18,815,100
Federal Funds	5,707,900	5,393,400
TOTAL	36,570,200	36,448,100

(1) **Expert Witnesses:** In addition to such funds as may be appropriated, the Office of the Attorney General may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses. Upon justification of the request, the Finance and Administration Cabinet shall provide up to \$275,000 for the 2018-2020 fiscal biennium for this purpose to the Office of the Attorney General from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). Without charge, the Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095. Expenditures under this subsection shall be reported to the Interim Joint Committee on Appropriations and Revenue by August 1 of each year.

(2) **Annual and Sick Leave Service Credit:** Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement Systems solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

(3) **Compensatory Leave Conversion to Sick Leave:** If the Office of the Attorney General determines that internal budgetary pressures warrant further austerity measures, the Attorney General may institute a policy to suspend payment of 50-hour blocks of compensatory time for those attorneys who have accumulated 240 hours of compensatory time and instead convert those hours to sick leave.

(4) **Operations of the Office of the Attorney General:** Notwithstanding KRS 367.478(2), 367.805(3), and 367.905(5), funds may be expended in support of the operations of the Office of the Attorney General.

(5) **Contingency Fee Contracts:** (a) The Office of the Attorney General may contract with outside law firms on a contingency fee basis, subject to the provisions of KRS 45A.690 to 45A.725.

(b) The Attorney General shall not award a contingency fee contract unless, prior to the award, the Attorney General determines in writing:

1. The contingency fee is both cost-effective and in the public interest;
2. That sufficient and appropriate legal and financial resources do not exist within the Office of the Attorney General; and that
3. The experience desired for the particular kind of legal services to be provided does not exist within the Office of the Attorney General.

(c) A contingency fee shall not exceed:

1. 20 percent of the amount recovered up to \$10,000,000;
2. 15 percent of the amount recovered between \$10,000,001 and \$15,000,000;
3. Ten percent of the amount recovered between \$15,000,001 and \$20,000,000;
4. Five percent of the amount recovered of \$20,000,001 or more; or

5. An amount of \$20,000,000, regardless of the number of actions or proceedings or the number of attorneys or law firms involved in the matter, and exclusive of any costs and expenses provided for by the contract and actually incurred by the legal services contractor.

(d) A contingency fee shall be payable only from money that is actually received pursuant to a judgment or settlement agreement, and any judgment or settlement funds shall be disbursed in accordance with KRS Chapter 45A and 48.005.

(e) The Attorney General or his or her designee shall retain control over the course and conduct of the case and shall retain veto authority over any decision made by the contract attorney. The Attorney General or his or her designee shall attend all settlement conferences, be personally involved in overseeing the litigation, and have exclusive decision-making power regarding any settlement of the matter for which the contract was entered. Any opposing party to the matter for which the contract was entered into may directly contact the Attorney General or his or her designee, without having to notify the contract attorney.

(f) The Finance and Administration Cabinet and the Office of the Attorney General shall post on their Web sites each contingency fee contract, the accompanying written determinations as required in paragraph (b) of this subsection, and any payments of contingency fees to the legal services contractors. These records shall remain posted on the Web sites for the duration of the contracts or any extensions, or 365 days, whichever is longer.

(g) In addition to the information required of each contingency fee contract by the Kentucky Model Procurement Code and KRS 45A.695, a contractor awarded a contingency fee contract shall maintain detailed current records of expenses, disbursements, charges and credits, underlying receipts and invoices, and any other financial transactions that occur under the contract. These records shall become public records subject to KRS 61.870 to 61.884 after a judgment or agreement is entered in the case and all appeals have been exhausted, but shall not be public records until that time. Any information that is subject to an evidentiary privilege shall be redacted before any public disclosure of these financial records.

(h) The Finance and Administration Cabinet and Office of the Attorney General shall submit a joint report to the Government Contract Review Committee by September 1 of each fiscal year identifying all contingency fee contracts awarded, active, and concluded in the previous fiscal year. For each contract, the report shall include the written determination as required in paragraph (b) of this subsection, the name of the attorney or law firm with whom the contract was made, the nature and status of the legal matter that is the subject of the contract, the name of the parties to the legal matter that is the subject of the contract, the amount of recovery, and the amount of the contingency fee paid.

(6) Legal Services Contracts: The Office of the Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through personal service contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Office of the Attorney General to perform the legal work and compensate the Office of the Attorney General for the legal services.

(7) Purdue Pharma Settlement Funds: In each fiscal year of the biennium, the Attorney General, after payment of attorney's fees and expenses, shall transfer \$1,500,000 of the settlement funds resulting from the suit against Purdue Pharma, et al. to Justice Administration for the Operation UNITE Program.

19. UNIFIED PROSECUTORIAL SYSTEM

(1) Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriations in this Act.

(2) Employment Classification Status and Wage and Benefits Determination Report: The Prosecutors Advisory Council shall report the methodology used to determine the employment classification status for all Assistant Commonwealth's Attorneys and Assistant County Attorneys, whether classification was full-time, part-time, or other, and define those classifications. In addition, the report shall include the methodology used to determine salary and benefits or wage and benefits for each Assistant Commonwealth's Attorney position and each

Assistant County Attorney position. The council shall finalize and submit this report to the Interim Joint Committee on Appropriations and Revenue by December 1, 2018.

a. Commonwealth's Attorneys

	2018-19	2019-20
General Fund	59,068,600	59,913,100
Restricted Funds	2,469,600	2,032,900
Federal Funds	40,300	40,300
TOTAL	61,578,500	61,986,300

(1) **Additional Prosecutors:** Included in the above General Fund appropriation is \$1,141,600 in fiscal year 2018-2019 and \$1,212,500 in fiscal year 2019-2020 to be used for the sole purpose of hiring additional prosecutors.

(2) **Rocket Docket Program:** Included in the above General Fund appropriation is \$387,700 in each fiscal year to support the Rocket Docket Program.

b. County Attorneys

	2018-19	2019-20
General Fund	52,266,800	53,058,600
Restricted Funds	782,200	642,700
Federal Funds	993,800	1,003,700
TOTAL	54,042,800	54,705,000

(1) **Additional Prosecutors:** Included in the above General Fund appropriation is \$1,619,000 in fiscal year 2018-2019 and \$1,720,900 in fiscal year 2019-2020 to be used for the sole purpose of hiring additional prosecutors.

(2) **Rocket Docket Program:** Included in the above General Fund appropriation is \$549,800 in each fiscal year to support the Rocket Docket Program.

(3) **County Attorneys Expense Allowance:** Notwithstanding KRS 15.765, each County Attorney shall receive a monthly expense allowance of \$400, payable out of the State Treasury for the 2018-2020 fiscal biennium.

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2018-19	2019-20
General Fund	111,335,400	112,971,700
Restricted Funds	3,251,800	2,675,600
Federal Funds	1,034,100	1,044,000
TOTAL	115,621,300	116,691,300

20. TREASURY

	2018-19	2019-20
General Fund	2,225,600	2,261,200
Restricted Funds	1,928,300	1,848,600
Road Fund	250,000	250,000
TOTAL	4,403,900	4,359,800

(1) **Unclaimed Property Fund:** Included in the above Restricted Funds appropriation is \$1,793,600 in each fiscal year from the Unclaimed Property Fund to provide funding for services performed by the Unclaimed Property Division of the Department of the Treasury.

21. AGRICULTURE

	2018-19	2019-20
General Fund (Tobacco)	500,000	500,000

General Fund	17,691,200	17,910,800
Restricted Funds	10,858,600	10,848,200
Federal Funds	7,068,400	7,068,400
TOTAL	36,118,200	36,327,400

(1) **Use of Restricted Funds:** Notwithstanding KRS 217.570 and 217B.580, funds may be expended in support of the operations of the Department of Agriculture.

(2) **Farms to Food Banks:** Included in the above General Fund (Tobacco) appropriation is \$500,000 in each fiscal year to support the Farms to Food Banks Program to benefit both Kentucky farmers and the needy by providing fresh, locally grown produce to food pantries.

(3) **County Fair Grants:** Included in the above General Fund appropriation is \$300,000 in each fiscal year of the 2018-2020 biennium to support capital improvement grants to the Local Agricultural Fair Aid Program.

(4) **Kentucky Grape and Wine Council:** Notwithstanding KRS 260.175(2), no General Fund is provided for the Kentucky Small Farm Wineries Support Fund for use by the Kentucky Grape and Wine Council.

22. AUDITOR OF PUBLIC ACCOUNTS

	2018-19	2019-20
General Fund	5,634,200	5,735,700
Restricted Funds	10,857,500	10,973,200
TOTAL	16,491,700	16,708,900

(1) **Auditor's Scholarships:** Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

(2) **Audit Services Contracts:** No state agency shall enter into any contract with a nongovernmental entity for audit services unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within 30 days of receipt of a written request for such services. The agency's request for audit services shall include a comprehensive statement of the scope and nature of the proposed audit.

(3) **Compensatory Leave Conversion to Sick Leave:** If the Auditor of Public Accounts determines that internal budgetary pressures warrant further austerity measures, the State Auditor may institute a policy to suspend payment of 50-hour blocks of compensatory time for those employees who have accumulated 240 hours of compensatory time and instead convert those hours to sick leave.

23. PERSONNEL BOARD

	2018-19	2019-20
Restricted Funds	1,009,800	1,018,500

24. KENTUCKY RETIREMENT SYSTEMS

	2018-19	2019-20
General Fund	1,086,200	1,086,200
Restricted Funds	47,307,300	47,702,500
TOTAL	48,393,500	48,788,700

(1) **State Police Retirement System Pension Fund:** Included in the above General Fund appropriation is \$1,086,200 in each fiscal year to be applied to the unfunded pension liability of the State Police Retirement System pension fund.

25. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Accountancy

	2018-19	2019-20
Restricted Funds	649,500	655,500

b. Certification of Alcohol and Drug Counselors

	2018-19	2019-20
Restricted Funds	150,200	150,200
c. Applied Behavior Analysis Licensing		
	2018-19	2019-20
Restricted Funds	30,600	30,600
d. Architects		
	2018-19	2019-20
Restricted Funds	547,300	552,400
e. Certification for Professional Art Therapists		
	2018-19	2019-20
Restricted Funds	11,200	11,200
f. Barbering		
	2018-19	2019-20
Restricted Funds	423,100	426,000
g. Chiropractic Examiners		
	2018-19	2019-20
Restricted Funds	374,400	377,900
h. Dentistry		
	2018-19	2019-20
Restricted Funds	1,011,100	1,017,500
i. Licensed Diabetes Educators		
	2018-19	2019-20
Restricted Funds	26,800	26,800
j. Licensure and Certification for Dietitians and Nutritionists		
	2018-19	2019-20
Restricted Funds	73,900	73,900
k. Embalmers and Funeral Directors		
	2018-19	2019-20
Restricted Funds	483,500	488,600
l. Licensure for Professional Engineers and Land Surveyors		
	2018-19	2019-20
Restricted Funds	1,578,100	1,594,500
m. Certification of Fee-Based Pastoral Counselors		
	2018-19	2019-20
Restricted Funds	3,600	3,600
n. Registration for Professional Geologists		
	2018-19	2019-20
Restricted Funds	95,000	95,000
o. Hairdressers and Cosmetologists		

	2018-19	2019-20
Restricted Funds	1,719,300	1,733,700
p. Specialists in Hearing Instruments		
	2018-19	2019-20
Restricted Funds	58,000	58,000
q. Interpreters for the Deaf and Hard of Hearing		
	2018-19	2019-20
Restricted Funds	38,200	38,200
r. Examiners and Registration of Landscape Architects		
	2018-19	2019-20
Restricted Funds	76,800	77,500
s. Licensure of Marriage and Family Therapists		
	2018-19	2019-20
Restricted Funds	133,600	133,600
t. Licensure for Massage Therapy		
	2018-19	2019-20
Restricted Funds	169,900	169,900
u. Medical Imaging and Radiation Therapy		
	2018-19	2019-20
Restricted Funds	435,300	438,300
v. Medical Licensure		
	2018-19	2019-20
Restricted Funds	3,407,900	3,426,800
w. Nursing		
	2018-19	2019-20
Restricted Funds	8,266,800	8,355,200
x. Licensure for Nursing Home Administrators		
	2018-19	2019-20
Restricted Funds	61,100	61,100
y. Licensure for Occupational Therapy		
	2018-19	2019-20
Restricted Funds	191,600	191,600
z. Ophthalmic Dispensers		
	2018-19	2019-20
Restricted Funds	68,200	68,200
aa. Optometric Examiners		
	2018-19	2019-20
Restricted Funds	231,300	233,300
ab. Pharmacy		

	2018-19	2019-20
Restricted Funds	2,437,400	2,465,300
ac. Physical Therapy		
	2018-19	2019-20
Restricted Funds	647,000	652,700
ad. Podiatry		
	2018-19	2019-20
Restricted Funds	40,000	40,000
ae. Private Investigators		
	2018-19	2019-20
Restricted Funds	73,700	73,700
af. Licensed Professional Counselors		
	2018-19	2019-20
Restricted Funds	260,800	260,800
ag. Prosthetics, Orthotics, and Pedorthics		
	2018-19	2019-20
Restricted Funds	46,200	46,200
ah. Examiners of Psychology		
	2018-19	2019-20
Restricted Funds	256,400	256,400
ai. Respiratory Care		
	2018-19	2019-20
Restricted Funds	240,300	242,900
aj. Social Work		
	2018-19	2019-20
Restricted Funds	421,000	425,300
ak. Speech-Language Pathology and Audiology		
	2018-19	2019-20
Restricted Funds	172,900	172,900
al. Veterinary Examiners		
	2018-19	2019-20
Restricted Funds	275,000	275,000
TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS		
	2018-19	2019-20
Restricted Funds	25,187,000	25,400,300
26. KENTUCKY RIVER AUTHORITY		
	2018-19	2019-20
General Fund	282,700	286,400
Restricted Funds	7,289,500	7,289,300

TOTAL	7,572,200	7,575,700
-------	-----------	-----------

27. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2018-19	2019-20
General Fund	129,898,300	129,071,300

(1) **Debt Service:** Included in the above General Fund appropriation is \$1,729,300 in fiscal year 2018-2019 and \$5,878,700 in fiscal year 2019-2020 for new debt service to support bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Additional Offers of Assistance:** Notwithstanding KRS 157.611 to 157.665, the School Facilities Construction Commission is authorized to make an additional \$58,000,000 in offers of assistance during the 2018-2020 biennium in anticipation of debt service availability during the 2020-2022 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2018-2020 biennium.

(3) **Urgent Needs School Assistance - 2018-2020:** Notwithstanding KRS 157.611 to 157.665, the School Facilities Construction Commission is authorized to make additional offers of assistance in the specified amounts during the 2018-2020 fiscal biennium to the following local school districts:

- (a) Not more than \$7,612,400 to Fort Thomas Independent Schools for Johnson Elementary School; and
- (b) Not more than \$7,650,300 to Menifee County Schools for Menifee Elementary School.

These schools are designated as the two schools ranked within the top 100 schools on both the Kentucky Facilities Inventory and Classification System reports released in 2011 and 2017 that are A1 schools, are ranked as a Priority 1 on the local school district's facility plan, and have levied a ten-cent equivalent tax dedicated to capital improvements but remain unable to cash fund or to sufficiently support the required annual debt service for replacement or renovation of the school. The amounts stated represent the difference between the cost to replace or renovate the designated facility and the amount of available local resources.

The School Facilities Construction Commission shall make offers of assistance to each local school district up to the amount authorized for that local school district only upon the written authorization of the Commissioner of Education or his or her designee and documentation of the project cost, but in no case shall any district receive an additional offer of assistance greater than that authorized in this section.

28. TEACHERS' RETIREMENT SYSTEM

	2018-19	2019-20
General Fund	828,160,500	719,474,400
Restricted Funds	13,949,200	13,989,000
TOTAL	842,109,700	733,463,400

(1) **Debt Service:** Included in the above General Fund appropriation is \$78,866,000 in fiscal year 2018-2019 and \$60,578,400 in fiscal year 2019-2020 for debt service on previously issued bonds.

(2) **Retiree Health Insurance:** Notwithstanding KRS 161.420, 161.550, or any other statute to the contrary, included in the above General Fund appropriation is \$59,500,000 in fiscal year 2018-2019 to support the state's contribution for the cost of retiree health insurance for members not eligible for Medicare, who have retired since July 1, 2010. Notwithstanding KRS 161.675, the Teachers' Retirement System Board of Trustees shall provide health insurance supplement payments towards the cost of the single coverage insurance premium based on age and years of service credit of eligible recipients of a retirement allowance, the cost of which shall be paid from the Medical Insurance Fund. Notwithstanding KRS 161.675, the Teachers' Retirement System Board of Trustees shall authorize eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age 65 to be included in the state-sponsored health insurance plan that is provided to active teachers and state employees under KRS 18A.225. Notwithstanding KRS 161.675(4)(a), the contribution paid by retirees who are less than age 65 who qualify for the maximum health insurance supplement payment for single coverage shall be no more than the sum of (a) the employee contribution paid by active teachers and state employees for a similar plan, and (b) the standard Medicare Part B premium as determined by the Centers for Medicare and Medicaid Services. Notwithstanding KRS 161.675(4)(a), the contribution paid by retirees who are less than age 65 who do not qualify for the maximum health insurance supplement payment for single coverage shall be determined by the same graduated formula used by the Teachers' Retirement System for Plan Year 2018.

(3) **Dependent Subsidy for All Retirees under age 65:** Pursuant to KRS 161.675(4), health insurance supplement payments made by the retirement system shall not exceed the amount of the single coverage insurance premium for Plan Year 2019 and Plan Year 2020.

(4) **Medical Insurance Fund Employee Contributions:** Notwithstanding any statute to the contrary, the employee contribution to the Medical Insurance Fund shall not be changed in the 2018-2020 fiscal biennium.

29. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

	2018-19	2019-20
General Fund	14,526,400	14,526,400

(1) **Funding Sources for Appropriations Not Otherwise Classified:** Funds required to pay the costs of items included within Appropriations Not Otherwise Classified are appropriated. Any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

The above appropriation is for the payment of Attorney General Expense, Kentucky Claims Commission Award, Guardian Ad Litem, Prior Year Claims, Unredeemed Checks Refunded, Involuntary Commitments - ICF/MR, Frankfort in Lieu of Taxes, Frankfort Cemetery, Police Officer, Firefighter, and National Guard and Reserve Survivor Benefits, Medical Malpractice Liability Insurance Reimbursement, and Blanket Employee Bonds.

(2) **Repayment of Awards or Judgments:** Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Kentucky Claims Commission against departments, boards, commissions, and other agencies funded with appropriations out of the General Fund. However, awards under \$5,000 shall be paid from funds available for the operations of the agency.

(3) **Guardian Ad Litem Fees:** Included in the above appropriation is funding for fees to be paid to each guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed \$500.

(4) **Reissuance of Uncashed Checks:** Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

(5) **Police Officer, Firefighter, and Active Duty National Guard and Reserve Survivor Benefits:** Funds are appropriated for payment of benefits for survivors of state and local police officers, firefighters, and active duty National Guard and Reserve members in accordance with KRS 61.315 and for the cost of insurance premiums for firefighters as provided in KRS 95A.070.

30. JUDGMENTS

	2018-19	2019-20
General Fund	-0-	-0-

(1) **Payment of Judgments and Carry Forward of General Fund Appropriation Balance:** Notwithstanding KRS 45A.275, the above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and, where applicable, shall be subject to KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.892 and 164.941, and for the payment of judgments, audit adjustments, and excess billings to federal programs related to transfers from statewide internal service funds to the General Fund authorized in prior appropriations acts. Funds required to pay the costs of items included within the Judgments budget unit are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

31. KENTUCKY COMMUNICATIONS NETWORK AUTHORITY

	2018-19	2019-20
Restricted Funds	3,500,000	1,500,000

(1) **Funding Sources for Availability Payments and Operating Expenses:** In addition to such funds as may be appropriated and in the event that funding generated by the Kentucky Communications Network Authority is not sufficient, expenditures as may be necessary to support availability payments required by the Kentucky Communications Network Authority's public-private partnership contract and operating expenses of the Authority

shall be deemed necessary government expenses, in amounts not to exceed \$2,820,200 in fiscal year 2017-2018, \$33,387,400 in fiscal year 2018-2019, and \$34,268,300 in fiscal year 2019-2020, and may be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act. Expenditures under this subsection shall be reported to the Interim Joint Committee on Appropriations and Revenue by August 1 of each year.

TOTAL - GENERAL GOVERNMENT

	2018-19	2019-20
General Fund (Tobacco)	43,103,300	40,929,300
General Fund	1,220,456,700	1,117,325,800
Restricted Funds	314,473,100	318,002,000
Federal Funds	127,777,800	126,608,900
Road Fund	557,900	562,000
TOTAL	1,706,368,800	1,603,428,000

B. ECONOMIC DEVELOPMENT CABINET

Budget Units

1. ECONOMIC DEVELOPMENT

	2018-19	2019-20
General Fund	20,704,000	20,813,500
Restricted Funds	2,888,800	2,950,000
Federal Funds	397,500	-0-
TOTAL	23,990,300	23,763,500

(1) **Funding for Commercialization and Innovation:** Notwithstanding KRS 154.12-278, interest income earned on the balances in the High-Tech Construction/Investment Pool and loan repayments received by the High-Tech Construction/Investment Pool shall be used to support the Office of Entrepreneurship and are appropriated in addition to amounts appropriated above.

(2) **Lapse and Carry Forward of General Fund Appropriation Balance for Bluegrass State Skills Corporation:** Notwithstanding KRS 45.229, the General Fund appropriation balance for Bluegrass State Skills Corporation training grants for fiscal year 2017-2018 and fiscal year 2018-2019 shall not lapse and shall carry forward. The amount available to the Corporation for disbursement in each fiscal year shall be limited to the unexpended training grant allotment balance at the end of fiscal year 2016-2017 combined with the additional training grant allotment amounts for each fiscal year of the 2018-2020 biennium, less any disbursements. If the required disbursements exceed the Bluegrass State Skills Corporation training grants allotment balance, notwithstanding KRS 154.12-278, Restricted Funds may be expended for training grants.

C. DEPARTMENT OF EDUCATION

Budget Units

1. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK)

	2018-19	2019-20
General Fund	3,066,588,600	3,047,480,900

(1) **Common School Fund Earnings:** Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the SEEK Program.

(2) **Allocation of SEEK Funds:** Notwithstanding KRS 157.360(2)(c), the above General Fund appropriation to the base SEEK Program is intended to provide a base guarantee of \$4,000 per student in average daily attendance in each fiscal year, as well as to meet the other requirements of KRS 157.360.

Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriation for this purpose, except as provided in this Act. The total appropriation for the SEEK Program shall be measured by, or construed as, estimates

of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with the approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the SEEK Program is subject to Part III, General Provisions, of this Act and KRS Chapter 48. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

(3) **SEEK Lapse:** Not less than \$12,953,600 of unexpended SEEK funds in fiscal year 2017-2018 shall lapse to the General Fund. Notwithstanding KRS 157.310 to 157.440, any funds in excess of the needs determined by the final SEEK calculation in each fiscal year shall be added to the allocation for pupil transportation in that same fiscal year and distributed in accordance with KRS 157.370.

(4) **Base SEEK Allotments:** Notwithstanding KRS 157.420(2), included in the above General Fund appropriation is \$2,079,778,600 in fiscal year 2018-2019 and \$2,068,339,200 in fiscal year 2019-2020 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriation for this purpose, except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for the base SEEK Program is \$214,752,800 in each fiscal year for pupil transportation.

(5) **Tier I Component:** Included in the above General Fund appropriation is \$179,961,700 in fiscal year 2018-2019 and \$176,702,400 in fiscal year 2019-2020 for the Tier I component as established by KRS 157.440.

(6) **Vocational Transportation:** Included in the above General Fund appropriation is \$2,416,900 in each fiscal year for vocational transportation.

(7) **Secondary Vocational Education:** Included in the above General Fund appropriation is \$22,881,900 in each fiscal year to provide secondary vocational education in state-operated vocational schools.

(8) **Teachers' Retirement System Employer Match:** Included in the above General Fund appropriation is \$408,500,000 in fiscal year 2018-2019 and \$417,600,000 in fiscal year 2019-2020 to enable local school districts to provide the employer match for qualified employees.

(9) **Salary Supplements for Nationally Certified Teachers:** Notwithstanding KRS 157.395, included in the above General Fund appropriation is \$2,750,000 in each fiscal year for the purpose of providing salary supplements for public school teachers attaining certification by the National Board for Professional Teaching Standards. Notwithstanding the provisions of KRS 157.395, if the appropriation is insufficient to provide the mandated salary supplement for teachers who have obtained this certification, the Department of Education is authorized to pro rata reduce the supplement.

(10) **SEEK Adjustment Factors:** Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

(11) **Facilities Support Program of Kentucky/Equalized Nickel Levies:** Included in the above General Fund appropriation is \$86,673,500 in fiscal year 2018-2019 and \$84,695,100 in fiscal year 2019-2020 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620.

(12) **Growth Levy Equalization Funding:** Included in the above General Fund appropriation is \$19,038,400 in fiscal year 2018-2019 and \$18,303,900 in fiscal year 2019-2020 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620, for districts meeting the eligibility requirements of KRS 157.621(1) and (4).

(13) **Retroactive Equalized Facility Funding:** Included in the above General Fund appropriation is \$23,913,700 in fiscal year 2018-2019 and \$23,415,000 in fiscal year 2019-2020 to provide equalized facility funding pursuant to KRS 157.440 and 157.620 to districts meeting the eligibility requirements of KRS 157.621(2) and (4). In addition, a local board of education that levied a tax rate subject to recall by January 1, 2014, in addition to the five cents levied pursuant to KRS 157.440(1)(b) and that committed the receipts to debt service, new facilities, or major renovations of existing facilities shall be eligible for equalization funds from the state at 150 percent of the statewide average per pupil assessment. Revenue to generate the five cent equivalent levy may be obtained from levies on property, motor vehicles, or the taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 if the levy was dedicated to facilities funding at the time of the levy. The equalization funds shall be used as provided in KRS 157.440(1)(b). For the 2018-2020 fiscal biennium, school districts that levied the tax rate subject to

recall prior to January 1, 2016, shall be equalized at 100 percent of the calculated equalization funding, and school districts that levied the tax rate subject to recall after January 1, 2016, and before January 1, 2018, and began collecting the tax by fiscal year 2018-2019, shall be equalized at 25 percent of the calculated equalization funding in each fiscal year. It is the intent of the 2018 General Assembly that any local school district receiving partial equalization under this subsection in the 2018-2020 fiscal biennium shall receive full calculated equalization in the 2020-2022 fiscal biennium and thereafter, until the earlier of June 30, 2038, or the date the bonds for the local school district supported by this equalization funding are retired, in accordance with KRS 157.621(2). It is the intent of the 2018 General Assembly that no local school district levying an equivalent tax rate subject to recall under the provisions of KRS 157.621(2) after January 1, 2018, shall be eligible for state equalization funds.

(14) Equalized Facility Funding: Included in the above General Fund appropriation is \$7,269,500 in fiscal year 2018-2019 and \$7,133,500 in fiscal year 2019-2020 to provide equalized facility funding pursuant to KRS 157.420 and 157.620 to districts meeting the eligibility requirements of KRS 157.621(3) and (4).

(15) BRAC Equalized Facility Funding: Included in the above General Fund appropriation is \$2,057,500 in fiscal year 2018-2019 and \$2,016,800 in fiscal year 2019-2020 to provide equalized facility funding to school districts meeting the eligibility requirements of KRS 157.621(1)(c) pursuant to KRS 157.440 and 157.620.

(16) Equalization Funding for Critical Construction Needs Schools: Included in the above General Fund appropriation is \$6,506,300 in fiscal year 2018-2019 and \$6,473,400 in fiscal year 2019-2020 to school districts in accordance with KRS 157.621(5).

(17) Hold-Harmless Guarantee: A modified hold-harmless guarantee is established in fiscal biennium 2018-2020 which provides that every local school district shall receive at least the same amount of Support Education Excellence in Kentucky (SEEK) state funding per pupil as was received in fiscal year 1991-1992. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, and allotments to local school districts are reduced in accordance with KRS 157.430, allocations to school districts subject to this provision shall not be reduced.

(18) Residential Youth-at-Risk Programs: In accordance with KRS 157.360, no funds from the SEEK Program shall be distributed to the programs operated by the Kentucky Guard Youth Challenge Division of the Department of Military Affairs. Notwithstanding KRS 157.350, 157.360, 157.410, and any other statute to the contrary, any nonresident school district providing educational services to students enrolled in programs operated by the Kentucky Guard Youth Challenge Division of the Department of Military Affairs shall be paid for those services from the General Fund appropriation in Part I, A., 7. of this Act.

(19) Use of Local District Capital Funds: Notwithstanding KRS 157.420(4) and (6), 157.440, and 157.621, a local board of education may submit a request to the Commissioner of Education to utilize any capital funds for general operating expenses in fiscal year 2018-2019 without forfeiting the district's eligibility to participate in the School Facilities Construction Commission Program. The Commissioner of Education shall not approve any capital funds request that exceeds 25 percent of a local board of education's available capital funds in fiscal year 2018-2019. Prior to August 1, 2018, the Kentucky Board of Education shall approve guidelines for requests from local boards of education. Notwithstanding KRS 157.615(14) and 157.622, the School Facilities Construction Commission shall include the capital funds transferred under the provisions of this subsection among the local board of education's available local revenue for the purposes of calculating unmet facilities need for the 2018-2020 fiscal biennium. Notwithstanding KRS 157.618, no local school district shall be eligible for a grant from the Emergency and Targeted Investment Fund in fiscal year 2018-2019 if any of its capital funds have been transferred under the provisions of this subsection.

(20) Unmined Minerals Assessment Offset: Included in the above General Fund appropriation are the following amounts in fiscal year 2018-2019 to help offset the loss of revenue to the below named local school districts from a change in the assessed value of unmined minerals:

- (a) \$201,800 for Bell County Schools;
- (b) \$1,300 for Boyd County Schools;
- (c) \$367,200 for Breathitt County Schools;
- (d) \$200 for Carter County Schools;
- (e) \$11,300 for Clay County Schools;
- (f) \$8,900 for Daviess County Schools;
- (g) \$100 for Elliott County Schools;

- (h) \$845,200 for Floyd County Schools;
- (i) \$727,200 for Harlan County Schools;
- (j) \$112,700 for Henderson County Schools;
- (k) \$192,200 for Hopkins County Schools;
- (l) \$1,400 for Jenkins Independent Schools;
- (m) \$68,500 for Johnson County Schools;
- (n) \$1,757,500 for Knott County Schools;
- (o) \$17,800 for Knox County Schools;
- (p) \$53,300 for Lawrence County Schools;
- (q) \$732,800 for Leslie County Schools;
- (r) \$1,002,900 for Letcher County Schools;
- (s) \$59,700 for Magoffin County Schools;
- (t) \$429,600 for Martin County Schools;
- (u) \$1,000 for McCreary County Schools;
- (v) \$5,900 for McLean County Schools;
- (w) \$2,600 for Morgan County Schools;
- (x) \$129,800 for Muhlenberg County Schools;
- (y) \$128,900 for Ohio County Schools;
- (z) \$600 for Owsley County Schools;
- (aa) \$1,142,700 for Perry County Schools;
- (ab) \$1,655,800 for Pike County Schools;
- (ac) \$379,300 for Union County Schools;
- (ad) \$27,600 for Webster County Schools; and
- (ae) \$22,000 for Whitley County Schools.

(21) Emergency Revolving School Loan Fund Account: From the General Fund appropriation set forth in 2016 Ky. Acts ch. 149, Part I, C., 1., \$7,000,000 is appropriated in fiscal year 2017-2018 for the Emergency Revolving School Loan Fund account. Notwithstanding KRS 45.229, these funds shall not lapse and shall carry forward.

Notwithstanding KRS 160.599, a school district shall be eligible for a loan from the account if the school district has a significant revenue shortfall within the immediate prior year, the current year, or the upcoming fiscal year, due to circumstances beyond the district's control which the district has made reasonable and prudent efforts to mitigate; or there are any other extraordinary financial circumstances which warrant an emergency loan, as determined by the Kentucky Board of Education on the recommendation of the Commissioner of Education. No loan from the account shall be made for a period in excess of five years, and the maximum amount of any one loan from the account shall not exceed \$500,000 and shall be determined by the Kentucky Board of Education on the recommendation of the Commissioner of Education.

Notwithstanding KRS 160.599, the Kentucky Board of Education may promulgate administrative regulations in accordance with KRS Chapter 13A as needed for the loan process. The Kentucky Department of Education shall monitor any loans made and provide by October 1 of each year an annual written report to the Interim Joint Committee on Appropriations and Revenue on the status of the loan fund account as of the immediately previous September 1.

2. OPERATIONS AND SUPPORT SERVICES

	2018-19	2019-20
General Fund	56,243,700	56,326,300

Restricted Funds	7,401,500	7,401,500
Federal Funds	389,132,300	389,178,100
TOTAL	452,777,500	452,905,900

(1) **Employment of Leadership Personnel:** Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set those employees' compensation comparable to the competitive market.

(2) **Blind/Deaf Residential Travel Program:** Included in the above General Fund appropriation is \$492,300 in each fiscal year for the Blind/Deaf Residential Travel Program.

(3) **School Food Services:** Included in the above General Fund appropriation is \$3,555,900 in each fiscal year for the School Food Services Program.

(4) **Review of the Classification of Primary and Secondary School Buildings:** Included in the above General Fund appropriation is \$600,000 in each fiscal year to implement KRS 157.420(9) and (10). Notwithstanding KRS 45.229, any portion of the \$600,000 that has not been expended by the end of fiscal year 2018-2019 shall not lapse and shall carry forward into fiscal year 2019-2020. Notwithstanding KRS 157.420(9) and (10), only schools classified as A1, A2, A3, A4, A5, A6, C2, and D1 shall be included in the evaluation process. Notwithstanding KRS 157.420(9) and (10), the Department of Education may limit the school buildings included in the evaluation process based on the time elapsed since the building's construction or last major renovation as defined in 702 KAR 4:160. The Department of Education shall provide an updated list of school buildings evaluated by the process pursuant to KRS 157.420(9) and (10) to the Legislative Research Commission by October 1, 2019.

(5) **Advanced Placement and International Baccalaureate Exams:** Notwithstanding KRS 160.348(3), included in the above General Fund appropriation is \$1,000,000 in each fiscal year to pay the cost of Advanced Placement and International Baccalaureate examinations for those students who meet the eligibility requirements for free or reduced-price meals.

(6) **School Technology in Coal Counties:** Included in the above General Fund appropriation is \$1,750,000 in each fiscal year for the purpose of enhancing education technology in local school districts within coal-producing counties. The Commissioner of Education shall use the appropriation in this subsection to continue the Coal County Computing Program in conjunction with the Cabinet for Economic Development through its Department of Commercialization and Innovation.

3. LEARNING AND RESULTS SERVICES

	2018-19	2019-20
General Fund	1,006,064,200	1,020,447,300
Restricted Funds	34,812,100	35,045,100
Federal Funds	559,690,200	559,756,300
TOTAL	1,600,566,500	1,615,248,700

(1) **Kentucky Education Technology System:** The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

(2) **Family Resource and Youth Services Centers:** Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2018-2019 and in fiscal year 2019-2020 to the Cabinet for Health and Family Services consistent with KRS 156.496. The Cabinet for Health and Family Services is authorized to use, for administrative purposes, no more than three percent of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource and Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Health and Family Services and the State Budget Director identifying the salary of the director. The Cabinet for Health and Family Services shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this paragraph to the Legislative Research Commission.

(3) **Health Insurance:** Included in the above General Fund appropriation is \$710,172,500 in fiscal year 2018-2019 and \$724,376,000 in fiscal year 2019-2020 for employer contributions for health insurance and the contribution to the health reimbursement account for employees waiving coverage.

(4) **Locally Operated Vocational Programs:** Notwithstanding KRS 157.069, the supplemental funding distribution shall include Category II and III programs in districts established after June 21, 2001, with state assistance, if approved by the Commissioner of Education.

(5) **Program Elimination:** Notwithstanding KRS 156.095, 156.400 to 156.476, 156.553, 156.555, 157.100 to 157.190, 157.390, 158.070, 158.770, 158.775, and 158.805, no General Fund is provided for Instructional Resources (Textbooks), the Professional Development Program, the Commonwealth School Improvement Fund, the Leadership and Mentor Fund, the Middle School Academic Center, the Teacher's Professional Growth Fund, the Teacher Academies Program, and the Writing Program.

(6) **Program Flexibility:** Notwithstanding KRS 158.070(8) and 158.446, local school districts shall be provided additional flexibility in the utilization of funds for Extended School Services and Safe Schools. Local school districts shall continue to address the governing statutes and serve the intended student population but may utilize funds from these programs for general operating expenses in each year of the biennium. Local school districts that utilize these funds for general operating expenses shall report to the Kentucky Department of Education and the Interim Joint Committee on Education on an annual basis the amount of funding from each program utilized for general operating expenses.

(7) **Advisory Council for Gifted and Talented Education:** Notwithstanding KRS 158.648(1), a member of the State Advisory Council for Gifted and Talented Education may be reappointed but shall not serve more than five consecutive terms. Notwithstanding KRS 158.648(1), a member of the Kentucky Association for Gifted Education shall be a voting member of the State Advisory Council for Gifted and Talented Education.

(8) **Allocation of Safe School Funds:** Notwithstanding KRS 158.446, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440, 158.441, 158.442, 158.445, and 158.446.

(9) **Allocations to School-Based Decision Making Councils:** Notwithstanding KRS 160.345(8), for fiscal years 2018-2019 and 2019-2020, a local board of education may reduce the allocations to individual schools within the district as outlined in 702 KAR 3:246, secs. 6, 7, and 8. The allocation under 702 KAR 3:246, sec. 6, shall not be less than \$100 per pupil in average daily attendance.

(10) **Kentucky School for the Blind and Kentucky School for the Deaf:** Included in the above General Fund appropriation is \$6,811,600 in fiscal year 2018-2019 and \$6,853,100 in fiscal year 2019-2020 for the Kentucky School for the Blind and \$10,019,700 in fiscal year 2018-2019 and \$10,080,600 in fiscal year 2019-2020 for the Kentucky School for the Deaf.

(11) **Learning and Results Services Programs:** Included in the above General Fund appropriation are the following allocations for the 2018-2020 fiscal biennium, but no portion of these funds shall be utilized for state-level administrative purposes:

- (a) Notwithstanding KRS 154A.130(4), \$1,700,000 in each fiscal year for AdvanceKentucky;
- (b) \$1,200,000 in each fiscal year for the Collaborative Center for Literacy Development Program;
- (c) \$1,850,000 in each fiscal year for the Community Education Program;
- (d) \$397,600 in each fiscal year for the Elementary Arts and Humanities Program;
- (e) \$23,916,300 in each fiscal year for the Extended School Services Program;
- (f) \$48,889,000 in each fiscal year for the Family Resource and Youth Services Centers Program;
- (g) \$6,208,400 in each fiscal year for the Gifted and Talented Program;
- (h) \$100,000 in each fiscal year for the Heuser Hearing and Language Academy;
- (i) \$100,000 in each fiscal year for the Lexington Hearing and Speech Center;
- (j) \$1,391,000 in each fiscal year for Local School District Life Insurance;
- (k) \$5,019,000 in each fiscal year for the Mathematics Achievement Fund;
- (l) \$84,481,100 in each fiscal year for the Preschool Program;

- (m) \$15,936,600 in each fiscal year for the Read to Achieve Program;
- (n) \$13,000,000 in each fiscal year for the Safe Schools Program;
- (o) \$1,300,000 in each fiscal year for the Save the Children/Rural Literacy Program;
- (p) \$9,465,500 in each fiscal year for the State Agency Children Program;
- (q) \$250,000 in each fiscal year for Teach for America;
- (r) \$1,000,000 in each fiscal year for the Teacher Recruitment and Retention Program - Educator Quality and Diversity; and
- (s) \$93,800 in each fiscal year for the Visually Impaired Preschool Services Program.

(12) Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Department of Education, shall promulgate administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2018-2020 fiscal biennium.

(13) Preschool Education Program: Notwithstanding KRS 157.3175, \$7,500,000 of preschool funding in each fiscal year shall be used to develop a grant program to incentivize cooperative, public-private partnerships between school districts and child care providers to develop full-day, high-quality programs for children eligible for assistance from the Child Care Assistance Program to be administered by the Kentucky Department of Education. The Board of Education, the Department of Education, the Early Childhood Advisory Council, the Child Care Advisory Council, and the Cabinet for Health and Family Services shall work collaboratively to develop the incentive grant program.

TOTAL - DEPARTMENT OF EDUCATION

	2018-19	2019-20
General Fund	4,128,896,500	4,124,254,500
Restricted Funds	42,213,600	42,446,600
Federal Funds	948,822,500	948,934,400
TOTAL	5,119,932,600	5,115,635,500

D. EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Budget Units

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2018-19	2019-20
General Fund	5,164,000	5,210,100
Restricted Funds	7,381,600	7,475,400
Federal Funds	3,867,000	3,198,400
TOTAL	16,412,600	15,883,900

(1) Governor's Scholars Program: Included in the above General Fund appropriation is \$1,758,700 in each fiscal year for the Governor's Scholars Program.

(2) Kentucky Center for Education and Workforce Statistics: Included in the above General Fund appropriation is \$600,000 in fiscal year 2019-2020 to support the Kentucky Longitudinal Data System.

2. PROPRIETARY EDUCATION

	2018-19	2019-20
Restricted Funds	320,900	323,900

3. DEAF AND HARD OF HEARING

	2018-19	2019-20
General Fund	959,000	970,000
Restricted Funds	1,173,800	1,179,700
TOTAL	2,132,800	2,149,700

4. KENTUCKY EDUCATIONAL TELEVISION

	2018-19	2019-20
General Fund	15,047,600	15,401,100
Restricted Funds	1,518,600	1,524,800
TOTAL	16,566,200	16,925,900

(1) **Debt Service:** Included in the above General Fund appropriation is \$182,500 in fiscal year 2018-2019 and \$365,000 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

5. ENVIRONMENTAL EDUCATION COUNCIL

	2018-19	2019-20
Restricted Funds	214,400	217,700
Federal Funds	73,700	66,000
TOTAL	288,100	283,700

(1) **Environmental Education Council:** Notwithstanding KRS 224.43-505(2)(b), the Council may use interest received to support the operations of the Council.

6. LIBRARIES AND ARCHIVES**a. General Operations**

	2018-19	2019-20
General Fund	6,265,600	6,327,100
Restricted Funds	1,641,500	1,464,000
Federal Funds	2,567,400	2,589,900
TOTAL	10,474,500	10,381,000

b. Direct Local Aid

	2018-19	2019-20
General Fund	6,829,600	6,829,600
Restricted Funds	592,200	592,200
TOTAL	7,421,800	7,421,800

(1) **Per Capita Grants:** Notwithstanding KRS 171.201(2)(b), included in the above General Fund appropriation is \$2,500,000 in each fiscal year for Per Capita Grants.

(2) **Public Libraries Facilities Construction:** Included in the above General Fund appropriation is \$4,329,600 in each fiscal year for the Public Libraries Facilities Construction Fund.

TOTAL - LIBRARIES AND ARCHIVES

	2018-19	2019-20
General Fund	13,095,200	13,156,700
Restricted Funds	2,233,700	2,056,200
Federal Funds	2,567,400	2,589,900

TOTAL	17,896,300	17,802,800
-------	------------	------------

7. OFFICE FOR THE BLIND

	2018-19	2019-20
General Fund	1,880,900	1,890,800
Restricted Funds	1,011,100	1,015,400
Federal Funds	10,110,800	10,184,500
TOTAL	13,002,800	13,090,700

(1) **Cafeteria Service Contracts:** No state agency shall enter into any contract with a nongovernmental entity for the operation of food services provided in the cafeterias located in the Kentucky Transportation Cabinet office building and/or the Cabinet for Human Resources office building in Frankfort unless the Office for the Blind has declined in writing to provide such services.

8. EMPLOYMENT AND TRAINING

	2018-19	2019-20
Restricted Funds	46,496,600	46,321,000
Federal Funds	440,635,600	440,765,400
TOTAL	487,132,200	487,086,400

(1) **Unemployment Compensation Administration Fund:** Notwithstanding KRS 341.240 and 341.295, funds from the Unemployment Compensation Administration Fund may be used each fiscal year to support the Wagner-Peyser Program.

9. VOCATIONAL REHABILITATION

	2018-19	2019-20
General Fund	13,393,000	13,459,000
Restricted Funds	3,334,000	3,336,300
Federal Funds	50,270,000	50,341,400
TOTAL	66,997,000	67,136,700

10. EDUCATION PROFESSIONAL STANDARDS BOARD

	2018-19	2019-20
General Fund	3,624,700	3,643,800
Restricted Funds	1,122,300	974,300
Federal Funds	95,500	95,900
TOTAL	4,842,500	4,714,000

(1) **Internship Programs:** Notwithstanding KRS 161.027 and 161.030, no General Fund is provided for the operational costs of the Kentucky Principal Internship Program and the Kentucky Teacher Internship Program.

TOTAL - EDUCATION AND WORKFORCE DEVELOPMENT CABINET

	2018-19	2019-20
General Fund	53,164,400	53,731,500
Restricted Funds	64,807,000	64,424,700
Federal Funds	507,620,000	507,241,500
TOTAL	625,591,400	625,397,700

E. ENERGY AND ENVIRONMENT CABINET**Budget Units**

1. SECRETARY

	2018-19	2019-20
General Fund	3,330,000	3,372,100
Restricted Funds	1,874,100	1,632,400
Federal Funds	1,126,400	1,126,400
TOTAL	6,330,500	6,130,900

(1) Volkswagen Mitigation Trust Agreement: All funds received from the environmental mitigation trust established by Volkswagen pursuant to the partial consent decree shall be held in a trust and agency account. These funds shall not be expended or appropriated without the express authority of the General Assembly.

2. ENVIRONMENTAL PROTECTION

	2018-19	2019-20
General Fund	27,665,900	28,567,500
Restricted Funds	75,122,300	75,031,800
Federal Funds	21,121,700	20,723,500
Road Fund	320,900	320,900
TOTAL	124,230,800	124,643,700

(1) Debt Service: Included in the above General Fund appropriation is \$424,500 in fiscal year 2018-2019 and \$849,000 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

3. NATURAL RESOURCES

	2018-19	2019-20
General Fund (Tobacco)	3,757,300	3,757,300
General Fund	37,228,700	37,702,200
Restricted Funds	14,698,100	14,661,700
Federal Funds	61,424,900	61,846,200
TOTAL	117,109,000	117,967,400

(1) Emergency Forest Fire Suppression: Not less than \$2,500,000 of the above General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. Any portion of the \$2,500,000 not expended for emergency forest fire suppression shall lapse to the General Fund at the end of each fiscal year. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of \$2,500,000 each fiscal year. Fire suppression costs in excess of \$2,500,000 annually shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) Environmental Stewardship Program: Included in the above General Fund (Tobacco) appropriation is \$2,500,000 in each fiscal year for the Environmental Stewardship Program.

(3) Conservation District Local Aid: Included in the above General Fund (Tobacco) appropriation is \$907,300 in each fiscal year for the Division of Conservation to provide direct aid to local conservation districts.

(4) Match for Conservation Program: Included in the above General Fund (Tobacco) appropriation is \$350,000 in each fiscal year to provide the nonfederal match for a federal conservation program.

4. ENERGY DEVELOPMENT AND INDEPENDENCE

	2018-19	2019-20
General Fund	1,412,000	1,433,800
Restricted Funds	867,800	827,500

Federal Funds	582,000	582,000
TOTAL	2,861,800	2,843,300

5. KENTUCKY NATURE PRESERVES COMMISSION

	2018-19	2019-20
General Fund	1,224,400	1,244,800
Restricted Funds	944,000	944,000
Federal Funds	49,600	49,600
TOTAL	2,218,000	2,238,400

6. PUBLIC SERVICE COMMISSION

	2018-19	2019-20
General Fund	16,582,600	16,582,600
Restricted Funds	201,900	201,900
Federal Funds	445,100	445,100
TOTAL	17,229,600	17,229,600

(1) Lapse of General Fund Appropriation Balance: Notwithstanding KRS 278.150(3), \$6,485,200 in fiscal year 2018-2019 and \$6,485,200 in fiscal year 2019-2020 shall lapse to the General Fund.

TOTAL - ENERGY AND ENVIRONMENT CABINET

	2018-19	2019-20
General Fund (Tobacco)	3,757,300	3,757,300
General Fund	87,443,600	88,903,000
Restricted Funds	93,708,200	93,299,300
Federal Funds	84,749,700	84,772,800
Road Fund	320,900	320,900
TOTAL	269,979,700	271,053,300

F. FINANCE AND ADMINISTRATION CABINET**Budget Units****1. GENERAL ADMINISTRATION**

	2018-19	2019-20
General Fund	7,572,800	7,889,800
Restricted Funds	32,616,000	32,680,300
Road Fund	264,800	266,400
TOTAL	40,453,600	40,836,500

(1) State Motor Vehicle Fleet: The Secretary of the Finance and Administration Cabinet shall restrict permanently assigned vehicles to only Constitutional Officers, the Court of Justice, Executive Cabinet Secretaries, law enforcement, or for other public safety purposes. A report listing the recipients of permanently assigned vehicles from the State Motor Vehicle Fleet shall be submitted to the Interim Joint Committee on Appropriations and Revenue by August 1 of each fiscal year.

2. CONTROLLER

	2018-19	2019-20
General Fund	6,351,000	6,422,500
Restricted Funds	13,138,300	13,205,300

TOTAL	19,489,300	19,627,800
-------	------------	------------

(1) **Social Security Contingent Liability Fund:** Any expenditures that may be required by KRS 61.470 are hereby deemed necessary government expenses and shall be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from any available balance in the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

3. INSPECTOR GENERAL

	2018-19	2019-20
General Fund	790,500	802,700
Restricted Funds	657,300	662,900
TOTAL	1,447,800	1,465,600

4. DEBT SERVICE

	2018-19	2019-20
General Fund (Tobacco)	28,974,900	31,878,700
General Fund	475,583,700	491,371,500
TOTAL	504,558,600	523,250,200

(1) **General Fund (Tobacco) Debt Service Lapse:** Notwithstanding Part X, (4) of this Act, \$2,065,000 in fiscal year 2017-2018, \$2,031,400 in fiscal year 2018-2019 and \$1,987,500 in fiscal year 2019-2020 shall lapse to the General Fund.

5. FACILITIES AND SUPPORT SERVICES

	2018-19	2019-20
General Fund	6,115,900	7,178,000
Restricted Funds	43,198,300	43,430,700
TOTAL	49,314,200	50,608,700

(1) **Debt Service:** Included in the above General Fund appropriation is \$192,000 in fiscal year 2018-2019 and \$1,168,000 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

6. COUNTY COSTS

	2018-19	2019-20
General Fund	19,743,500	19,743,500
Restricted Funds	1,702,500	1,702,500
TOTAL	21,446,000	21,446,000

(1) **County Costs:** Funds required to pay county costs are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

(2) **Reimbursement to Sheriffs' Offices for Court Security Services:** Notwithstanding KRS 64.092(6), the sheriff or other law enforcement officer serving a Circuit or District Court shall be compensated at the rate of \$9 per hour of service.

(3) **Sheriffs' Expense Allowance:** Notwithstanding KRS 70.170, each sheriff performing the duties required under the provisions of KRS 70.150 shall be allowed the amount of \$2,400 annually, payable out of the State Treasury at the rate of \$200 per month for such services in the 2018-2020 fiscal biennium.

7. COMMONWEALTH OFFICE OF TECHNOLOGY

	2018-19	2019-20
General Fund	641,000	1,923,000

Restricted Funds	129,509,300	128,955,900
Federal Funds	10,000	10,000
TOTAL	130,160,300	130,888,900

(1) **Debt Service:** Included in the above General Fund appropriation is \$641,000 in fiscal year 2018-2019 and \$1,923,000 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Computer Services Fund Receipts:** The Secretary of the Finance and Administration Cabinet shall provide a listing of fee receipts from the Executive, Judicial, and Legislative Branches of government itemized by appropriation units, cost allocation methodology, and a report detailing the rebate of excess fee receipts to the agencies to the Interim Joint Committee on Appropriations and Revenue by August 1 of each fiscal year.

8. REVENUE

	2018-19	2019-20
General Fund (Tobacco)	250,000	250,000
General Fund	95,204,300	101,965,600
Restricted Funds	14,710,700	16,713,400
Road Fund	3,577,500	3,621,000
TOTAL	113,742,500	122,550,000

(1) **Operations of Revenue:** Notwithstanding KRS 132.672, 134.552(2), 136.652, and 365.390(2), funds may be expended in support of the operations of the Department of Revenue.

(2) **Debt Service:** Included in the above General Fund appropriation is \$5,820,500 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Local Economic Development Grants:** Included in the above Restricted Funds appropriation is \$2,000,000 in fiscal year 2018-2019 and \$4,000,000 in fiscal year 2019-2020 transferred from the TVA Regional Development Agency Assistance Fund for the purpose of supporting grants to local economic development agencies.

9. PROPERTY VALUATION ADMINISTRATORS

	2017-18	2018-19	2019-20
General Fund	2,438,400	54,824,800	56,138,900
Restricted Funds	-0-	3,698,500	3,500,000
TOTAL	2,438,400	58,523,300	59,638,900

(1) **Management of Expenditures:** Notwithstanding KRS 132.590 and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

(2) **Appropriation Increases:** Included in the above General Fund appropriation is an additional \$2,438,400 in fiscal year 2017-2018 and \$8,224,900 in each fiscal year of the 2018-2020 biennium to support operations of the property valuation administrators.

(3) **Property Valuation Administrators' Expense Allowance:** Notwithstanding KRS 132.597, each property valuation administrator shall receive an expense allowance of \$2,400 annually, payable out of the State Treasury at the rate of \$200 per month in the 2018-2020 fiscal biennium.

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2017-18	2018-19	2019-20
General Fund (Tobacco)	-0-	29,224,900	32,128,700
General Fund	2,438,400	666,827,500	693,435,500
Restricted Funds	-0-	239,230,900	240,851,000
Federal Funds	-0-	10,000	10,000

Road Fund	-0-	3,842,300	3,887,400
TOTAL	2,438,400	939,135,600	970,312,600

G. HEALTH AND FAMILY SERVICES CABINET**Budget Units****1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT**

	2018-19	2019-20
General Fund	35,784,800	36,475,900
Restricted Funds	21,369,500	21,410,100
Federal Funds	54,073,100	54,457,500
TOTAL	111,227,400	112,343,500

(1) **Debt Service:** Included in the above General Fund appropriation is \$102,500 in fiscal year 2018-2019 and \$307,500 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Human Services Transportation Delivery:** Notwithstanding KRS 281.010, the Kentucky Works Program shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee.

(3) **Federally Funded Positions:** Notwithstanding KRS 18A.010(2) and any provisions of this Act to the contrary, direct service units of the Office of Inspector General, Department for Income Support, Commission for Children with Special Health Care Needs, Department for Community Based Services, Department for Behavioral Health, Developmental and Intellectual Disabilities, Family Resource Centers and Volunteer Services, Department for Aging and Independent Living, and the Department for Public Health shall be authorized to establish and fill such positions that are 100 percent federally funded for salary and fringe benefits.

2. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2018-19	2019-20
General Fund	5,249,000	5,249,000
Restricted Funds	11,285,500	11,477,400
Federal Funds	4,566,100	4,566,100
TOTAL	21,100,600	21,292,500

3. MEDICAID SERVICES**a. Medicaid Administration**

	2018-19	2019-20
General Fund	56,622,700	59,367,300
Restricted Funds	19,027,200	10,266,400
Federal Funds	214,031,000	164,474,200
TOTAL	289,680,900	234,107,900

(1) **Transfer of Excess Administrative Funds for Medicaid Benefits:** If any portion of the above General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

- (a) Establish a new program;
- (b) Expand the services of an existing program; or
- (c) Increase rates or payment levels in an existing program.

Any transfer authorized under this subsection shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

(2) Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or the Cabinet for Health and Family Services shall be made, unless the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

b. Medicaid Benefits

	2018-19	2019-20
General Fund	1,825,369,800	1,983,649,500
Restricted Funds	536,245,100	521,341,800
Federal Funds	8,920,198,300	9,298,956,300
TOTAL	11,281,813,200	11,803,947,600

(1) Transfer of Medicaid Benefits Funds: Any portion of the General Fund appropriation in either fiscal year that is deemed to be necessary for the administration of the Medicaid Program may be transferred from the Medicaid Benefits budget unit to the Medicaid Administration budget unit in accordance with statutes governing the functions and activities of the Department for Medicaid Services. The Secretary shall recommend any proposed transfer to the State Budget Director for approval prior to transfer. Such action shall be reported by the Cabinet for Health and Family Services to the Interim Joint Committee on Appropriations and Revenue.

(2) Intergovernmental Transfers (IGTs): Any funds received through an Intergovernmental Transfer (IGT) agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved State Plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid Benefits. Revenues from IGTs are contingent upon agreement by the parties, including but not limited to the Cabinet for Health and Family Services, Department for Medicaid Services, and the appropriate providers. The Secretary of the Cabinet for Health and Family Services shall make the appropriate interim appropriations increase requests pursuant to KRS 48.630.

(3) Medicaid Benefits Budget Deficit: If Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health and Family Services may recommend and implement that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed and approved by the Office of State Budget Director. No service, eligible, or program reductions shall be implemented by the Cabinet for Health and Family Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health and Family Services shall be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue.

(4) Medicaid Pharmacy: Notwithstanding KRS 205.6312(4), a pharmacy provider participating in the Medical Assistance Program or a pharmacy provider serving Kentucky Medicaid recipients through a Medicaid Managed Care Organization shall not be required to serve an eligible recipient if the recipient does not make the required copayment at the time of service. An exception to this provision shall be an encounter when a recipient presents a condition which could result in harm to the recipient if left untreated, in which case the pharmacist shall dispense a 72-hour emergency supply of the required medicine. The recipient may then return to the pharmacy with the necessary copayment to obtain the remainder of the prescription. Only one dispensing fee shall be paid by the Cabinet for the provision of both the emergency supply and the remainder of the prescription. The Medicaid Managed Care Organization shall determine its policies with respect to dispensing fees.

(5) Disproportionate Share Hospital (DSH) Program: Hospitals shall report the uncompensated care for which, under federal law, the hospital is eligible to receive disproportionate share payments. Disproportionate share payments shall equal the maximum amounts established under federal law.

(6) **Hospital Indigent Patient Billing:** Hospitals shall not bill patients for services if the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

(7) **Provider Tax Information:** Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that it has paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Programs. The Cabinet for Health and Family Services shall include this provision in facilities' annual licensure inspections.

(8) **Medicaid Budget Analysis Reports:** The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue no later than 75 days after the quarter's end. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

(9) **Medicaid Managed Care Organization Reporting:** Except as provided by KRS 61.878, all records and correspondence relating to Kentucky Medicaid, revenues derived from Kentucky Medicaid funds, and expenditures utilizing Kentucky Medicaid funds of a Medicaid managed care company operating within the Commonwealth shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All records and correspondence relating to Medicaid specifically prohibited from disclosure by the federal Health Insurance Portability and Accountability Act privacy rules shall not be provided under this Act.

No later than 60 days after the end of a quarter, each Medicaid managed care company operating within the Commonwealth shall prepare and submit to the Department for Medicaid Services sufficient information to allow the department to meet the following requirements 90 days after the end of the quarter. The Department shall forward to the Legislative Research Commission Budget Review Office a quarterly report detailing monthly actual expenditures by service category, monthly eligibles, and average monthly cost per eligible for Medicaid and the Kentucky Children's Health Insurance Program (KCHIP) along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for other categories such as pharmacy rebates and reinsurance. Finally, the Department shall include in this report the most recent information or report available regarding the amount withheld to meet Department of Insurance reserve requirements, and any distribution of moneys received or retained in excess of these reserve requirements.

(10) **Critical Access Hospitals:** Beginning with the effective date of this Act through June 30, 2020, no acute care hospital shall convert to a critical access hospital unless the hospital has either received funding for a feasibility study from the Kentucky State Office of Rural Health or filed a written request by January 1, 2018, with the Kentucky State Office of Rural Health requesting funding for conducting a feasibility study.

(11) **Appeals:** An appeal from denial of a service or services provided by a Medicaid managed care organization for medical necessity, or denial, limitation, or termination of a health care service in a case involving a medical or surgical specialty or subspecialty, shall, upon request of the recipient, authorized person, or provider, include a review by a board-eligible or board-certified physician in the appropriate specialty or subspecialty area; except in the case of a health care service rendered by a chiropractor or optometrist, for which the denial shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky as specified in KRS 304.17A-607(1)(b). The physician reviewer shall not have participated in the initial review and denial of service and shall not be the provider of the service or services under consideration in the appeal.

(12) **Supports for Community Living Reimbursement Increase:** Included in the above appropriation is \$10,529,000 in General Fund moneys in each fiscal year and \$24,567,800 in Federal Funds in each fiscal year to be expended by the Department for Medicaid Services to increase provider reimbursements for Supports for Community Living Waiver Program services. From these funds, the Department shall increase the upper payment limit dollar amount for each Supports for Community Living Waiver Program service by ten percent from the dollar amount in effect on December 31, 2017, as established by the Department. The funds directed under this subsection shall not be reallocated, except as expressly permitted in this subsection, and are contingent upon approval by the U.S. Centers for Medicare and Medicaid Services and the receipt of federal financial participation. In the event the Supports for Community Living Waiver Program encounters a material change based upon a new or amended federal waiver that is approved by the U.S. Centers for Medicare and Medicaid Services, then the amounts appropriated under this

subsection may be reallocated so long as the upper payment limit dollar amount for each Supports for Community Living Waiver Program service is not less than the dollar amount established under this subsection.

(13) Acquired Brain Injury Waiver Slots: Included in the above appropriation is \$2,550,400 in General Fund in fiscal year 2019-2020 and \$6,330,500 in Federal Funds in fiscal year 2019-2020 to support 118 additional long-term care slots.

(14) Kentucky Children's Health Insurance Program (KCHIP): Included in the above appropriation is \$12,000,000 in General Fund in fiscal year 2019-2020 and \$188,077,282 in Federal Funds in fiscal year 2019-2020 to support the continuation of KCHIP services.

(15) Medicaid Prescription Benefits Reporting: Notwithstanding KRS 205.647, the Department for Medicaid Services shall submit a report to the Interim Joint Committee on Appropriations and Revenue by December 1 of each fiscal year on the dispensing of prescription medications to persons eligible under KRS 205.560. The report shall include:

- (a) The total Medicaid dollars paid to the pharmacy benefit manager by a managed care organization;
- (b) The total amount of Medicaid dollars paid to the pharmacy benefit manager by a managed care organization which were not subsequently paid to a pharmacy licensed in Kentucky;
- (c) The average reimbursement by drug ingredient cost, dispensing fee, and any other fee paid by a pharmacy benefit manager to licensed pharmacies with which the pharmacy benefit manager shares common ownership, management, or control; or which are owned, managed, or controlled by any of the pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company; or which share any common members on the board of directors; or which share managers in common;
- (d) The average reimbursement by drug ingredient cost, dispensing fee, or any other fee paid by a pharmacy benefit manager to pharmacies licensed in Kentucky which operate ten locations, ten or fewer locations, or ten or more locations;
- (e) Any direct or indirect fees, charges, or any kind of assessments imposed by the pharmacy benefit manager on pharmacies licensed in Kentucky with which the pharmacy benefit manager shares common ownership, management, or control; or which are owned, managed, or controlled by any of the pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company; or which share any common members on the board of directors; or which share managers in common;
- (f) Any direct or indirect fees, charges, or any kind of assessments imposed by the pharmacy benefit manager on pharmacies licensed in Kentucky which operate ten locations, ten or fewer locations, or ten or more locations; and
- (g) All common ownership, management, common members of a board of directors, shared managers, or control of a pharmacy benefit manager, or any of the pharmacy benefit manager's management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, manager, or holding company with any managed care organization contracted to administer Kentucky Medicaid benefits, any entity which contracts on behalf of a pharmacy, or any pharmacy services administration organization, or any common ownership management, common members of a board of directors, shared managers, or control of a pharmacy services administration organization that is contracted with a pharmacy benefit manager, with any drug wholesaler or distributor or any of the pharmacy services administration organizations, management companies, parent companies, subsidiary companies, jointly held companies, or companies otherwise affiliated by a common owner, common members of a board of directors, manager, or holding company.

(16) Medicaid Prescription Drug Dispensing Reimbursement Rate: Included in the above General Fund appropriation is \$12,000,000 in fiscal year 2018-2019 to provide an increase in the reimbursement rate for the dispensing of prescription medications to Medicaid enrollees who receive services through a managed care organization. Any increase in the reimbursement rate for the dispensing of prescription medications to Medicaid enrollees in a managed care organization for fiscal year 2019-2020 shall be funded with savings realized by the cost-saving measures implemented in the Medicaid pharmacy program.

TOTAL - MEDICAID SERVICES

	2018-19	2019-20
General Fund	1,881,992,500	2,043,016,800

Restricted Funds	555,272,300	531,608,200
Federal Funds	9,134,229,300	9,463,430,500
TOTAL	11,571,494,100	12,038,055,500

4. BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

	2018-19	2019-20
General Fund (Tobacco)	1,500,800	1,500,800
General Fund	172,406,600	173,286,700
Restricted Funds	209,582,900	203,459,900
Federal Funds	49,131,100	39,703,000
TOTAL	432,621,400	417,950,400

(1) **Disproportionate Share Hospital Funds:** Mental health disproportionate share funds are budgeted at the maximum amounts permitted by Section 1923(f) of the Social Security Act. Upon publication in the Federal Register of the Annual Institutions for Mental Disease (IMD) Disproportionate Share Hospital (DSH) limit, 92.3 percent of the federal IMD DSH limit goes to the state-operated mental hospitals.

(2) **Lease Payments for Eastern State Hospital:** Included in the above General Fund appropriation is \$11,257,500 in fiscal year 2018-2019 and \$11,256,200 in fiscal year 2019-2020 to make lease payments to the Lexington-Fayette Urban County Government to retire its debt for the construction of the new facility.

(3) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$1,500,800 in each fiscal year of the 2018-2020 biennium for substance abuse prevention and treatment for pregnant women with a history of substance abuse problems.

(4) **Debt Service:** Included in the above General Fund appropriation is \$71,000 in fiscal year 2018-2019 and \$737,000 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(5) **Regional Mental Health/Mental Retardation Boards Retirement Cost:** Included in the above General Fund appropriation is \$23,274,100 in each fiscal year for Regional Mental Health/Mental Retardation Boards to assist them with employer contributions for the Kentucky Employees Retirement System. In July and January of each year, the Department for Behavioral Health, Developmental and Intellectual Disabilities shall obtain the total creditable compensation reported by each Regional Mental Health/Mental Retardation Board to the Kentucky Retirement System and utilize that number to determine how much of this total appropriation shall be distributed to each Regional Mental Health/Mental Retardation Board. Payments to the Mental Health/Mental Retardation Boards shall be made on September 1 and April 1 of each fiscal year.

(6) **Delivery of Services for Intermediate Care Facilities for Individuals with Intellectual Disability (ICF/ID):** The General Assembly directs the Cabinet for Health and Family Services to transition all qualified individuals from the ICF/ID care model to the community living model demonstrated by the Supports for Community Living Waiver Program as permitted and in compliance with all applicable federal laws. For those qualified individuals who need an additional, higher level of supervision, such as one-on-one staffing and increased behavioral support services, an enhanced rate shall be applied for successful transition to the Supports for Community Living Waiver Program. In continuance of the transitions, from any cost savings realized by the Cabinet for Health and Family Services, 50 percent shall be utilized to increase the reimbursement rates for Supports for Community Living Waiver Program slots and the remaining balance shall be transferred to the Budget Reserve Trust Fund Account (KRS 48.705). The Cabinet shall provide a quarterly report on transition progress, including identification of cost savings, to the Interim Joint Committee on Health and Welfare and Family Services.

5. PUBLIC HEALTH

	2018-19	2019-20
General Fund (Tobacco)	15,903,000	15,472,100
General Fund	76,360,000	76,481,200
Restricted Funds	86,878,400	86,987,400

Federal Funds	190,380,300	190,607,100
TOTAL	369,521,700	369,547,800

(1) Tobacco Settlement Funds: Included in the above General Fund (Tobacco) appropriation is \$9,000,000 in each fiscal year for the Health Access Nurturing Development Services (HANDS) Program, \$1,000,000 in each fiscal year for Healthy Start initiatives, \$80,000 in each fiscal year for the Folic Acid Program, \$1,000,000 in each fiscal year for Early Childhood Mental Health, \$1,050,000 in each fiscal year for Early Childhood Oral Health, and \$3,773,000 in fiscal year 2018-2019 and \$3,342,100 in fiscal year 2019-2020 for Smoking Cessation.

(2) Local and District Health Department Retirement Cost: Included in the above General Fund appropriation is \$25,394,600 in each fiscal year of the 2018-2020 biennium for Local and District Health Departments to assist them with employer contributions for the Kentucky Employees Retirement System. In July and January of each year, the Department for Public Health shall obtain the total creditable compensation reported by each Local and District Health Department Board to the Kentucky Retirement System and utilize that number to determine how much of this total appropriation shall be distributed to each department. Payments to the Local and District Health Departments shall be made on September 1 and April 1 of each fiscal year.

(3) Local and District Health Department Payments: The Department for Public Health shall not interfere with the ability of a local or district health department to receive reimbursement for services provided. The Department for Public Health shall submit to the Department for Medicaid Services and the Medicaid Managed Care Organizations all requests for payment for services received from a local or district health department.

(4) Kentucky Poison Control Center: Included in the above General Fund appropriation is \$750,000 in each fiscal year for the Kentucky Poison Control Center.

(5) Kentucky Colon Cancer Screening Program: Included in the above General Fund appropriation is \$500,000 in each fiscal year to support the Kentucky Colon Cancer Screening Program.

(6) Kentucky Pediatric Cancer Research Trust Fund: Included in the above General Fund appropriation is \$2,500,000 in each fiscal year to the Kentucky Pediatric Cancer Research Trust Fund for general pediatric cancer research and support of expansion of clinical trials at the University of Kentucky and University of Louisville.

6. HEALTH POLICY

	2018-19	2019-20
General Fund	471,600	476,900
Restricted Funds	818,600	649,100
Federal Funds	1,013,100	1,013,100
TOTAL	2,303,300	2,139,100

7. FAMILY RESOURCE CENTERS AND VOLUNTEER SERVICES

	2017-18	2018-19	2019-20
General Fund	4,100,000	11,318,100	11,336,400
Federal Funds	-0-	7,042,200	7,053,300
TOTAL	4,100,000	18,360,300	18,389,700

(1) Family Resource and Youth Service Centers: Included in the above General Fund appropriation is an additional \$4,100,000 in fiscal year 2017-2018 and \$9,791,700 in each fiscal year of the 2018-2020 fiscal biennium to support Family Resource and Youth Service Centers.

8. INCOME SUPPORT

	2018-19	2019-20
General Fund	7,116,600	7,116,600
Restricted Funds	12,550,900	12,550,900
Federal Funds	85,212,900	85,736,600
TOTAL	104,880,400	105,404,100

9. COMMUNITY BASED SERVICES

	2017-18	2018-19	2019-20
General Fund (Tobacco)	-0-	13,211,100	12,250,000
General Fund	2,500,000	471,974,100	473,960,500
Restricted Funds	-0-	201,316,100	202,239,400
Federal Funds	-0-	572,881,400	577,870,100
TOTAL	2,500,000	1,259,382,700	1,266,320,000

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$10,711,100 in fiscal year 2018-2019 and \$9,750,000 in fiscal year 2019-2020 for the Early Childhood Development Program. Included in the above General Fund (Tobacco) appropriation is \$2,500,000 in each fiscal year for the Early Childhood Adoption and Foster Care Supports Program.

(2) **Contracted Entities Retirement Cost:** Included in the above General Fund appropriation is \$1,498,900 in each fiscal year for domestic violence shelters, rape crisis centers, and child advocacy centers to assist them with employer contribution rates for the Kentucky Employees Retirement System. In the interim, the contracted entities shall evaluate the feasibility of continued participation in the Kentucky Employees Retirement System as provided in KRS 61.522.

(3) **Fostering Success:** Included in the above General Fund appropriation is \$375,000 in each fiscal year for the Fostering Success Program. The Cabinet for Health and Family Services shall submit a report containing the results of the program, including but not limited to the number of participants, number and type of job placements, job training provided, and any available information pertaining to individual outcomes to the Interim Joint Committee on Appropriations and Revenue by July 1 of each fiscal year.

(4) **Relative Placement Support Benefit:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year for start-up costs associated with placing children with non-parental relatives.

(5) **Domestic Violence Shelters:** Included in the above General Fund appropriation is \$250,000 in each fiscal year for operational costs.

(6) **Rape Crisis Centers:** Included in the above General Fund appropriation is \$250,000 in each fiscal year for operational costs.

(7) **Dually Licensed Pediatric Facilities:** Included in the above General Fund appropriation is \$550,000 in each fiscal year to provide supplemental payments to dually licensed pediatric facilities for emergency shelter services for children.

(8) **Child Care Assistance Program:** Included in the above General Fund appropriation is \$10,600,000 in each fiscal year to provide services to families at or below 160 percent of the federal poverty level as determined annually by the U.S. Department of Health and Human Services.

(9) **Family Counseling and Trauma Remediation Services:** Included in the above General Fund appropriation is \$50,000 in each fiscal year to provide forensic interviews, family counseling, and trauma remediation services primarily in Jefferson County and surrounding Kentucky counties.

(10) **Private Child Caring Agencies Reimbursement Rates:** Included in the above appropriations is \$3,893,000 in General Fund, \$21,900,000 in Restricted Funds, and \$2,200,500 in Federal Funds in each fiscal year to increase reimbursement rates to private child caring agencies.

(11) **Salary Adjustments:** Included in the above General Fund appropriation is \$11,148,100 in each fiscal year to provide up to a 10 percent increase in the base salary or wages in the Social Services Worker I, Social Services Worker II, Social Service Clinician I, Social Service Clinician II, and Family Services Office Supervisor personnel classifications within the Department for Community Based Services effective July 1, 2018.

10. AGING AND INDEPENDENT LIVING

	2018-19	2019-20
General Fund	43,742,400	43,937,800
Restricted Funds	3,298,500	3,308,800
Federal Funds	24,829,300	24,829,300

TOTAL	71,870,200	72,075,900
-------	------------	------------

(1) **Local Match Requirements:** Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health and Family Services to provide essential services under KRS 205.455 and 205.460 shall provide local match equal to or greater than the amount in effect during fiscal year 2017-2018. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health and Family Services shall prescribe the procedures to certify the local match compliance.

11. HEALTH BENEFIT EXCHANGE

	2018-19	2019-20
Restricted Funds	5,063,900	5,100,500

(1) **Kentucky Access Fund:** Notwithstanding KRS 304.17B-021, excess Restricted Funds not needed for the operations and maintenance cost for the Health Benefit Exchange in fiscal year 2018-2019 and in fiscal year 2019-2020 shall be transferred to the Department for Medicaid Services from the Kentucky Access Fund.

TOTAL - HEALTH AND FAMILY SERVICES CABINET

	2017-18	2018-19	2019-20
General Fund (Tobacco)	-0-	30,614,900	29,222,900
General Fund	6,600,000	2,706,415,700	2,871,337,800
Restricted Funds	-0-	1,107,436,600	1,078,791,700
Federal Funds	-0-	10,123,358,800	10,449,266,600
TOTAL	6,600,000	13,967,826,000	14,428,619,000

H. JUSTICE AND PUBLIC SAFETY CABINET

Budget Units

1. JUSTICE ADMINISTRATION

	2018-19	2019-20
General Fund (Tobacco)	7,831,000	7,362,800
General Fund	31,085,700	31,244,000
Restricted Funds	4,297,100	4,302,800
Federal Funds	51,629,900	76,643,600
TOTAL	94,843,700	119,553,200

(1) **Operation UNITE:** Notwithstanding KRS 48.005(4), included in the above Restricted Funds appropriation is \$1,500,000 in each fiscal year for the Operation UNITE Program from settlement funds resulting from the suit against Purdue Pharma, et al.. Included in the above General Fund appropriation is \$500,000 in each fiscal year from the Local Government Economic Development Fund for the Operation UNITE Program.

(2) **Office of Drug Control Policy:** Included in the above General Fund (Tobacco) appropriation is \$7,831,000 in fiscal year 2018-2019 and \$7,362,800 in fiscal year 2019-2020 for the Office of Drug Control Policy to support opioid prevention, treatment, and recovery initiatives.

(3) **Access to Justice:** Included in the above General Fund appropriation is \$639,800 in each fiscal year to support the Access to Justice Program.

(4) **Court Appointed Special Advocate Funding:** (a) Included in the above General Fund appropriation is \$1,406,300 in each fiscal year for grants to support Court Appointed Special Advocate (CASA) funding programs.

(b) No administrative costs shall be paid from the appropriation provided in paragraph (a) of this subsection.

2. CRIMINAL JUSTICE TRAINING

2018-19	2019-20
----------------	----------------

Restricted Funds	90,330,600	82,834,500
Federal Funds	120,200	120,200
TOTAL	90,450,800	82,954,700

(1) Kentucky Law Enforcement Foundation Program Fund: Included in the above Restricted Funds appropriation is \$88,818,100 in fiscal year 2018-2019 and \$80,366,500 in fiscal year 2019-2020 for the Kentucky Law Enforcement Foundation Program Fund.

(2) Training Incentive Payments: Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is \$4,000 in each fiscal year for each participant for training incentive payments.

(3) Training Incentive Stipends Expansion to Other Peace Officers:

(a) Notwithstanding KRS 15.410, 15.420(2), 15.460(1), 15.470(2) and (4), and any statute to the contrary, included in the above Restricted Funds appropriation is sufficient funding for a \$4,000 annual training incentive stipend for Kentucky state troopers, Kentucky State Police arson investigators, Kentucky State Police hazardous devices investigators, Kentucky State Police legislative security specialists, Kentucky vehicle enforcement officers, Horse Park mounted patrol officers, Parks rangers, Agriculture investigators, Charitable Gaming investigators, Alcoholic Beverage Control investigators, Insurance Fraud investigators, and Attorney General investigators from the Kentucky Law Enforcement Foundation Program Fund. Employers of these officers shall be reimbursed for the Federal Insurance Contributions Act tax and retirement plan contributions employers are required to make to defined benefit pension plans.

(b) Notwithstanding KRS 15.410, 15.420(2), 15.460(1), 15.470(2) and (4), and any statute to the contrary, included in the above Restricted Funds appropriation is sufficient funding for a \$4,000 annual training incentive stipend for School Security officers employed by an eligible local unit of government, plus an amount equal to the required employer's contribution on the supplement to the defined benefit plan to which the officer belongs.

(c) Notwithstanding any statute to the contrary, employers of eligible local units of government shall receive an administrative expense reimbursement in an amount equal to 7.65 percent of the total annual supplement received greater than \$3,100 for each qualified local officer. Total reimbursements to all employers of this subsection shall not exceed \$525,000 in each fiscal year. If there are insufficient funds to provide for the full provision of the administrative fee, then the amount shall be distributed pro rata to each eligible local unit of government so that each receives the same percentage attributable to its total receipts of the cash salary supplement.

(4) Support for Statewide Law Enforcement Purposes: (a) Notwithstanding KRS 15.470 and any other statute to the contrary, included in the above Restricted Funds appropriation is \$1,442,500 in each fiscal year to be transferred to the Department of Kentucky State Police for the laboratory updates capital project set forth in Part II, H., 3., 002. of this Act.

(b) Notwithstanding KRS 15.470 and any other statute to the contrary, included in the above Restricted Funds appropriation is \$3,305,800 in fiscal year 2018-2019 and \$872,800 in fiscal year 2019-2020 to be transferred to the Department of Kentucky State Police for the sole purpose of purchasing marked and unmarked vehicles.

(c) Notwithstanding KRS 15.470 and any other statute to the contrary, included in the above Restricted Funds appropriation is \$4,329,500 in fiscal year 2018-2019 to be transferred to the Department of Kentucky State Police for the purposes of paying pension spiking costs and sick leave service credit.

(d) Any unexpended balance from the appropriations set forth in paragraphs (a), (b), and (c) of this subsection shall lapse to the Kentucky Law Enforcement Foundation Program Fund.

(5) Criminal Justice Council: Pursuant to KRS 15.410 to 15.515, the Department of Criminal Justice Training shall not transfer funds from the Kentucky Law Enforcement Foundation Program Fund to support the Criminal Justice Council.

(6) Administrative Costs: Notwithstanding KRS 15.470 and any other statute to the contrary, the Department of Criminal Justice Training is authorized to transfer Restricted Funds to the Department of Justice Administration to support the Criminal Justice Training attorney positions in each fiscal year of the biennium.

3. JUVENILE JUSTICE

	2017-18	2018-19	2019-20
General Fund	600,000	103,935,700	105,397,200
Restricted Funds	-0-	10,360,000	10,027,400

Federal Funds	-0-	10,542,300	10,421,300
TOTAL	600,000	124,838,000	125,845,900

4. STATE POLICE

	2018-19	2019-20
General Fund	125,210,700	121,147,800
Restricted Funds	38,458,400	31,357,800
Federal Funds	11,097,100	11,097,100
Road Fund	105,278,800	106,762,100
TOTAL	280,045,000	270,364,800

(1) **Call to Extraordinary Duty:** There is appropriated from the General Fund to the Department of Kentucky State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **State Police and Vehicle Enforcement Personnel Training Incentive:** Included in the above Restricted Funds appropriation is sufficient funding for a \$4,000 annual training incentive stipend for state troopers, arson investigators, hazardous devices investigators, legislative security specialists, and vehicle enforcement officers from the Kentucky Law Enforcement Foundation Program Fund.

(3) **Restricted Funds Uses:** Notwithstanding KRS 24A.179, 42.320(2)(h), 65.7631, 189A.050(3)(a), 237.110(18), and 281A.160(2)(b), funds are included in the above Restricted Funds appropriation to maintain the operations and administration of the Kentucky State Police.

(4) **Dispatcher Training Incentive:** Included in the above General Fund appropriation is sufficient funding for a \$3,100 annual training incentive stipend for dispatchers.

(5) **Debt Service:** Included in the above General Fund appropriation is \$1,125,300 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(6) **Transfers for Statewide Law Enforcement Purposes:** (a) Included in the above Restricted Funds appropriation is \$1,442,500 in each fiscal year for the laboratory updates capital project set forth in Part II, H., 3., 002. of this Act.

(b) Included in the above Restricted Funds appropriation is \$3,305,800 in fiscal year 2018-2019 and \$872,800 in fiscal year 2019-2020 for the sole purpose of purchasing marked and unmarked vehicles.

(c) Included in the above Restricted Funds appropriation is \$4,329,500 in fiscal year 2018-2019 for the purposes of paying pension spiking costs and sick leave service credit.

(d) Any unexpended balance from the appropriations set forth in paragraphs (a), (b), and (c) of this subsection shall lapse to the Kentucky Law Enforcement Foundation Program Fund.

(7) **Forensic Laboratory Technician Salary Increases:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year for salary increases for forensic laboratory technicians.

5. CORRECTIONS

a. Corrections Management

	2018-19	2019-20
General Fund	11,744,800	11,890,700
Restricted Funds	300,000	300,000
Federal Funds	75,000	75,000
TOTAL	12,119,800	12,265,700

(1) **Local Correctional Facilities:** Notwithstanding KRS 441.420, no funds are provided for reimbursement to counties for design fees for architectural and engineering services associated with any new local correctional facility approved by the Local Correctional Facilities Construction Authority.

(2) Management of State Inmate Population: (a) Notwithstanding KRS 532.100 and any other provision of law to the contrary, the Department of Corrections is authorized to adjust inmate custody levels as necessary to house Class C and Class D felons beyond the scope of KRS 532.100 in county jails, halfway houses, and reentry centers. These provisions shall exclude offenders convicted of a sex crime as defined in KRS 17.500.

(b) Notwithstanding KRS 532.100 and 501 KAR 2:040, counties may not obtain a waiver to be noncompliant with paragraph (a) of this subsection without written approval from the Department of Corrections.

(c) The Department of Corrections is authorized to compel county jail compliance of this subsection, including any reporting requirements deemed necessary by the Department.

(d) Notwithstanding KRS 197.500, 197.505, and any other provision of law to the contrary, no agency of state government shall enter into a new agreement or expand an existing agreement with any nongovernmental entity to house state inmates without authorization of the General Assembly, and if the Commissioner of the Department of Corrections seeks approval to expand or enter into a new agreement with any nongovernmental entity to house state inmates, the Commissioner shall certify to the Interim Joint Committee on Appropriations and Revenue that all bed capacities in county jails, halfway houses, and reentry centers have been exhausted.

b. Adult Correctional Institutions

	2017-18	2018-19	2019-20
General Fund	4,501,800	311,464,000	324,718,900
Restricted Funds	-0-	17,909,200	17,947,200
Federal Funds	-0-	272,500	272,500
TOTAL	4,501,800	329,645,700	342,938,600

(1) Debt Service: Included in the above General Fund appropriation is \$149,000 in fiscal year 2018-2019 and \$544,000 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(2) Transfer to State Institutions: Notwithstanding KRS 532.100(7), state prisoners, excluding the Class C and Class D felons qualifying to serve time in county jails, may be transferred to a state institution within 90 days of final sentencing, if the county jail does not object to the additional 45 days.

(3) Operational Costs for Inmate Population: In the event that actual operational costs exceed the amounts appropriated to support the budgeted average daily population of state felons for each fiscal year, the additional payments shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), subject to notification as to necessity and amount by the State Budget Director who shall report any certified expenditure to the Interim Joint Committee on Appropriations and Revenue.

c. Community Services and Local Facilities

	2018-19	2019-20
General Fund	244,656,300	245,505,700
Restricted Funds	10,000,000	9,876,100
Federal Funds	695,500	695,500
TOTAL	255,351,800	256,077,300

(1) Excess Local Jail Per Diem Costs: In the event that actual local jail per diem payments exceed the amounts appropriated to support the budgeted average daily population of state felons in county jails for each fiscal year, the payments shall be deemed necessary government expenses and may be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), subject to notification as to necessity and amount by the State Budget Director who shall report any certified expenditure to the Interim Joint Committee on Appropriations and Revenue.

(2) Local Jails Funding: Notwithstanding KRS 441.605 to 441.695, funds in the amount of \$2,000,000 in each fiscal year shall be expended from the Kentucky Local Correctional Facilities Construction Authority for local correctional facility and operational support.

(3) Parole for Infirm Inmates: (a) The Commissioner of the Department of Corrections shall certify and notify the Parole Board when a prisoner meets the requirements of paragraph (c) of this subsection for parole.

(b) Notwithstanding any statute to the contrary, within 30 days of receiving notification as prescribed by paragraph (a) of this subsection, the Parole Board shall grant parole.

(c) A prisoner who has been determined by the Department of Corrections to be physically or mentally debilitated, incapacitated, or infirm as a result of advanced age, chronic illness, disease, or any other qualifying criteria that constitutes an infirm prisoner shall be eligible for parole if:

1. The prisoner was not convicted of a capital offense and sentenced to death or was not convicted of a sex crime as defined in KRS 17.500;

2. The prisoner has reached his or her parole eligibility date or has served one-half of his or her sentence, whichever occurs first;

3. The prisoner is substantially dependent on others for the activities of daily living; and

4. There is a low risk of the prisoner presenting a threat to society if paroled.

(d) Unless a new offense is committed that results in a new conviction subsequent to a prisoner being paroled, paroled prisoners shall not be considered to be under the custody of the state in any way.

(e) Prisoners paroled under this subsection shall be paroled to a licensed long-term-care facility in the Commonwealth.

(f) The Cabinet for Health and Family Services and the Justice and Public Safety Cabinet shall provide all needed assistance and support in seeking and securing approval from the United States Department of Health and Human Services for federal assistance, including Medicaid funds, for the provision of long-term-care services to those eligible for parole under paragraph (c) of this subsection.

(g) The Cabinet for Health and Family Services and the Justice and Public Safety Cabinet shall have the authority to contract with community providers that meet the requirements of paragraph (e) of this subsection and that are willing to house any inmates deemed to meet the requirements of this subsection so long as contracted rates do not exceed current expenditures related to the provisions of this subsection.

(h) The Cabinet for Health and Family Services and the Justice and Public Safety Cabinet are encouraged to corroborate with other states that are engaged in similar efforts so as to achieve the mandates of this subsection.

(i) The Cabinet for Health and Family Services and the Justice and Public Safety Cabinet shall provide a report to the Interim Joint Committee on Appropriations and Revenue by December 15 of each fiscal year concerning these provisions. The report shall include the number of persons paroled, the identification of the residential facilities utilized, an estimate of cost savings as a result of the project, and any other relevant material to assist the General Assembly in assessing the value of continuing and expanding the project.

(4) Participation in Transparent Governing - Full Disclosure of Inmate Population Forecasts and Related Materials: The Office of State Budget Director shall provide the methodology, assumptions, data, and all other related materials used to project biennial offender population forecasts conducted by the Office of State Budget Director, the Kentucky Department of Corrections, and any consulting firms, to the Interim Joint Committee on Appropriations and Revenue by November 1, 2018. This submission shall include but not be limited to the projected state, county, and community offender populations for the 2018-2020 fiscal biennium and must coincide with the budgeted amount for these populations. This submission shall clearly divulge the methodology and reasoning behind the budgeted and projected offender population in a commitment to participate in transparent governing.

(5) Participation in Transparent Governing - Calculating Avoided Costs Relating to Legislative Action: The Office of State Budget Director shall provide the methodology, assumptions, data, and all other related materials used to calculate any avoided costs pursuant to the implementation of 2011 Ky. Acts ch. 2 by November 1, 2018. This submission shall clearly divulge the methodology and reasoning behind the projected costs avoided in a commitment to participate in transparent governing.

d. Local Jail Support

	2018-19	2019-20
General Fund	16,653,600	16,653,600

(1) Local Corrections Assistance Fund Allocation: Notwithstanding KRS 196.288(5)(a), included in the above General Fund appropriation is \$4,630,200 in each fiscal year for the Local Corrections Assistance Fund.

Moneys in the fund shall be distributed to the counties each year. Amounts distributed from the fund shall be used to support local correctional facilities and programs, including the transportation of prisoners, as follows:

(a) In each fiscal year, the first \$3,000,000 received by the fund, or, if the fund receives less than \$3,000,000, the entire balance of the fund, shall be divided equally among all counties; and

(b) Any moneys remaining after making the distributions required by paragraph (a) of this subsection shall be distributed to each county based on a ratio, the numerator of which shall be the county's county inmate population on the second Thursday in January during the prior fiscal year, and the denominator of which shall be the total counties' county inmate population for the entire state on the second Thursday in January during the prior fiscal year.

(2) **Jailers' Allowance:** Notwithstanding KRS 441.115(2), each jailer shall receive an expense allowance of \$2,400 annually, at the rate of \$200 per month in the 2018-2020 fiscal biennium, for participation in the Jail Staff Training Program.

(3) **Life Safety or Closed Jails:** Included in the above General Fund appropriation is \$880,000 in each fiscal year to provide a monthly payment of an annual amount of \$20,000 to each county with a life safety jail or closed jail. The payment shall be in addition to the payment required by KRS 441.206(2).

(4) **Inmate Medical Care Expenses:** Included in the above General Fund appropriation is \$792,800 in each fiscal year for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206, and \$851,800 in each fiscal year, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim that exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold.

TOTAL - CORRECTIONS

	2017-18	2018-19	2019-20
General Fund	4,501,800	584,518,700	598,768,900
Restricted Funds	-0-	28,209,200	28,123,300
Federal Funds	-0-	1,043,000	1,043,000
TOTAL	4,501,800	613,770,900	627,935,200

6. PUBLIC ADVOCACY

	2017-18	2018-19	2019-20
General Fund	3,800,000	65,412,600	66,170,800
Restricted Funds	-0-	4,608,100	4,504,300
Federal Funds	-0-	1,422,100	1,422,100
TOTAL	3,800,000	71,442,800	72,097,200

(1) **Compensatory Leave Conversion to Sick Leave:** If the Department of Public Advocacy determines that internal budgetary pressures warrant further austerity measures, the Public Advocate may institute a policy to suspend payment of 50-hour blocks of compensatory time for those attorneys who have accumulated 240 hours of compensatory time and instead convert those hours to sick leave.

TOTAL - JUSTICE AND PUBLIC SAFETY CABINET

	2017-18	2018-19	2019-20
General Fund (Tobacco)	-0-	7,831,000	7,362,800
General Fund	8,901,800	910,163,400	922,728,700
Restricted Funds	-0-	176,263,400	161,150,100
Federal Funds	-0-	75,854,600	100,747,300
Road Fund	-0-	105,278,800	106,762,100
TOTAL	8,901,800	1,275,391,200	1,298,751,000

I. LABOR CABINET

Budget Units**1. SECRETARY**

	2018-19	2019-20
Restricted Funds	6,792,900	6,484,200
Federal Funds	139,800	139,800
TOTAL	6,932,700	6,624,000

2. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2018-19	2019-20
General Fund	3,528,000	3,573,600
Restricted Funds	3,366,500	3,370,000
Federal Funds	74,900	73,400
TOTAL	6,969,400	7,017,000

3. WORKPLACE STANDARDS

	2018-19	2019-20
General Fund	2,404,500	2,434,600
Restricted Funds	8,732,800	8,873,300
Federal Funds	3,671,300	3,671,300
TOTAL	14,808,600	14,979,200

(1) **Apprenticeship Program:** Included in the above General Fund appropriation is an additional \$171,500 in each fiscal year for the Apprenticeship Program.

4. WORKERS' CLAIMS

	2018-19	2019-20
Restricted Funds	75,004,600	75,227,500

5. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

	2018-19	2019-20
Restricted Funds	745,700	752,600

6. WORKERS' COMPENSATION FUNDING COMMISSION

	2018-19	2019-20
Restricted Funds	117,306,600	116,826,000

7. WORKERS' COMPENSATION NOMINATING COMMITTEE

	2018-19	2019-20
Restricted Funds	1,100	1,100

TOTAL - LABOR CABINET

	2018-19	2019-20
General Fund	5,932,500	6,008,200
Restricted Funds	211,950,200	211,534,700
Federal Funds	3,886,000	3,884,500
TOTAL	221,768,700	221,427,400

J. PERSONNEL CABINET

Budget Units**1. GENERAL OPERATIONS**

	2018-19	2019-20
Restricted Funds	31,449,800	31,707,400

(1) **Pro Rata Assessment:** Included in the above Restricted Funds appropriation is \$2,869,000 in fiscal year 2018-2019 and \$2,693,800 in fiscal year 2019-2020 to be transferred to the General Fund to support debt service on bonds previously issued for the Kentucky Human Resources Information System.

2. PUBLIC EMPLOYEES DEFERRED COMPENSATION AUTHORITY

	2018-19	2019-20
Restricted Funds	9,227,800	9,269,300

3. WORKERS' COMPENSATION BENEFITS AND RESERVE

	2018-19	2019-20
Restricted Funds	25,497,000	25,510,100

TOTAL - PERSONNEL CABINET

	2018-19	2019-20
Restricted Funds	66,174,600	66,486,800
TOTAL	66,174,600	66,486,800

K. POSTSECONDARY EDUCATION**Budget Units****1. COUNCIL ON POSTSECONDARY EDUCATION**

	2018-19	2019-20
General Fund (Tobacco)	7,000,000	6,686,500
General Fund	40,430,300	40,496,500
Restricted Funds	5,368,000	5,273,300
Federal Funds	12,772,000	12,322,000
TOTAL	65,570,300	64,778,300

(1) **Carry Forward of General Fund Appropriation Balance:** Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2017-2018 and fiscal year 2018-2019 to the Adult Education and Literacy Program shall not lapse and shall carry forward. Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2017-2018 and fiscal year 2018-2019 to the Science and Technology Program shall not lapse and shall carry forward.

(2) **Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund Accounts:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, any expenditures from the Strategic Investment and Incentive Trust Fund accounts in excess of appropriated amounts by the Council on Postsecondary Education shall be subject to KRS 48.630.

(3) **Program Elimination:** Notwithstanding KRS 164.028 to 164.0282, no General Fund is provided for Professional Education Preparation.

(4) **Optometry Contract Spaces:** (a) Included in the above General Fund appropriation is \$776,000 in each fiscal year to fund 44 optometry slots. Of those slots, the Council on Postsecondary Education shall contract ten slots for fiscal year 2018-2019 and 15 slots for fiscal year 2019-2020 with the Kentucky College of Optometry for the same supplement available through the Southern Regional Education Board.

(b) No dues shall be paid to the Southern Regional Education Board from the appropriation included in paragraph (a) of this subsection.

(5) **Postsecondary Education Debt:** Notwithstanding KRS 45.750 to 45.810, in order to lower the cost of borrowing, any university that has issued or caused to be issued debt obligations through a not-for-profit corporation

or a municipality or county government for which the rental or use payments of the university substantially meet the debt service requirements of those debt obligations is authorized to refinance those debt obligations if the principal amount of the debt obligations is not increased and the rental payments of the university are not increased. Any funds used by a university to meet debt obligations issued by a university pursuant to this subsection shall be subject to interception of state-appropriated funds pursuant to KRS 164A.608.

(6) Adult Education: Included in the above General Fund appropriation are funds in each fiscal year for the Kentucky Adult Education Funding Program.

(7) Veterinary Medicine Contract Spaces: (a) Included in the above General Fund appropriation is \$5,084,000 in each fiscal year to fund 164 veterinary slots.

(b) No dues shall be paid to the Southern Regional Education Board from the appropriation included in paragraph (a) of this subsection.

(8) Ovarian Cancer Screening: Notwithstanding KRS 164.476, included in the above General Fund appropriation is \$500,000 in each fiscal year for the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

(9) Cancer Research and Screening: Included in the above General Fund (Tobacco) appropriation is \$7,000,000 in fiscal year 2018-2019 and \$6,686,500 in fiscal year 2019-2020 for cancer research and screening. The appropriation each fiscal year shall be equally shared between the University of Louisville and the University of Kentucky.

(10) Veterinary Contract Spaces Working Group: Having determined that there is a need to study the effects of both the establishment of a forgivable loan program for the students of the Veterinary Contract Spaces Program and the projected return of large animal veterinary graduates to practice in Kentucky, the Kentucky Council on Postsecondary Education is hereby directed to establish a working group composed of the following:

- (a) The President of the Council on Postsecondary Education or his representative;
- (b) The Speaker of the House or his representative;
- (c) A minority member of the House appointed by the Speaker;
- (d) The President of the Senate or his representative;
- (e) A minority member of the Senate appointed by the President;
- (f) The Kentucky Commissioner of Agriculture or his representative;
- (g) The Executive Director of the Governor's Office of Agricultural Policy or his representative;
- (h) A representative of the Kentucky Cattlemen's Association;
- (i) A representative of the Kentucky Pork Producers;
- (j) A representative of the Kentucky Poultry Federation;
- (k) A representative of the Kentucky Veterinary Medical Association;
- (l) A representative of the Kentucky Farm Bureau; and
- (m) A representative of the Kentucky Thoroughbred Owners and Breeders (KTOB).

The working group shall report to the Interim Joint Committee on Appropriations and Revenue no later than December 1, 2018.

(11) Southern Regional Education Board Dues: Included in the above General Fund appropriation is \$210,000 in each fiscal year for Southern Regional Education Board dues.

(12) Optometry Contract Spaces Working Group: Having determined that there is a need to study the effects of both the establishment of a forgivable loan program for the students of the Optometry Contract Spaces Program and the projected return of Optometry graduates to practice in Kentucky, the Kentucky Council on Postsecondary Education is hereby directed to establish a working group composed of the following:

- (a) The President of the Council on Postsecondary Education or his representative;
- (b) The Speaker of the House or his representative;
- (c) A minority member of the House appointed by the Speaker;

- (d) The President of the Senate or his representative;
 - (e) A minority member of the Senate appointed by the President;
 - (f) The Dean of the Kentucky College of Optometry at the University of Pikeville or his representative;
- and
- (g) The President of the Kentucky Optometric Association or his representative.

The working group shall report to the Interim Joint Committee on Appropriations and Revenue no later than December 1, 2018.

2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2018-19	2019-20
General Fund	232,100,000	239,100,000
Restricted Funds	33,492,100	34,756,500
Federal Funds	33,800	33,800
TOTAL	265,625,900	273,890,300

(1) **College Access Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$71,942,800 in fiscal year 2018-2019 and \$76,114,500 in fiscal year 2019-2020 for the College Access Program.

(2) **Kentucky Tuition Grant Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$38,574,400 in fiscal year 2018-2019 and \$40,364,400 in fiscal year 2019-2020 for the Kentucky Tuition Grant Program.

(3) **Kentucky National Guard Tuition Award Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$7,398,100 in each fiscal year for the National Guard Tuition Award Program.

(4) **Kentucky Educational Excellence Scholarships (KEES):** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$106,684,700 in fiscal year 2018-2019 and \$107,723,000 in fiscal year 2019-2020 for the Kentucky Educational Excellence Scholarships (KEES). Included in the above Restricted Funds appropriation is \$11,367,300 in fiscal year 2018-2019 and \$12,600,000 in fiscal year 2019-2020 for KEES.

(5) **Work Ready Scholarship Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$2,500,000 in each fiscal year for the Work Ready Scholarship Program.

(6) **Dual Credit Scholarship Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is \$5,000,000 in each fiscal year for the Dual Credit Scholarship Program.

(7) **Use of Lottery Revenues:** Notwithstanding KRS 154A.130(3)(a) and (4), lottery revenues in the amount of \$232,100,000 in fiscal year 2018-2019 and \$239,100,000 in fiscal year 2019-2020 are appropriated to the Kentucky Higher Education Assistance Authority. If lottery receipts received by the Commonwealth, excluding any unclaimed prize money received under Part III, Section 21. of this Act, exceed \$249,000,000 in fiscal year 2018-2019 or \$256,000,000 in fiscal year 2019-2020, the excess shall be transferred to the Kentucky Higher Education Assistance Authority and appropriated in accordance with KRS 154A.130(4)(b).

(8) **Program Elimination:** Notwithstanding KRS 164.518, 164.740 to 164.764, 164.769, 164.7890(11)(c), 164.7891(11)(b), and 164.7894, no General Fund is provided for Early Childhood Development Scholarships, Work Study, the Teacher Scholarship Program, Coal County Pharmacy Scholarships, Osteopathic Medicine Scholarships, and Coal County College Completion Scholarships.

3. EASTERN KENTUCKY UNIVERSITY

	2018-19	2019-20
General Fund	60,801,700	60,175,200
Restricted Funds	207,001,200	207,314,400
Federal Funds	127,500,000	135,500,600
TOTAL	395,302,900	402,990,200

4. KENTUCKY STATE UNIVERSITY

	2018-19	2019-20
General Fund	25,459,000	25,259,100
Restricted Funds	19,220,000	19,220,000
Federal Funds	19,000,000	19,000,000
TOTAL	63,679,000	63,479,100

(1) **Land Grant Match:** Included in the above General Fund appropriation is \$3,700,000 in each fiscal year to fund the state match payments required of land-grant universities under federal law.

5. MOREHEAD STATE UNIVERSITY

	2018-19	2019-20
General Fund	38,852,400	38,466,800
Restricted Funds	113,211,900	114,991,300
Federal Funds	50,205,200	51,499,100
TOTAL	202,269,500	204,957,200

(1) **Craft Academy:** Included in the above General Fund appropriation is \$2,822,400 in each fiscal year for the Craft Academy for Excellence in Science and Mathematics.

6. MURRAY STATE UNIVERSITY

	2018-19	2019-20
General Fund	45,014,500	44,581,400
Restricted Funds	129,986,300	130,419,400
Federal Funds	18,902,300	18,902,300
TOTAL	193,903,100	193,903,100

(1) **Breathitt Veterinary Center:** Included in the above General Fund appropriation is \$3,200,000 in each fiscal year for the Breathitt Veterinary Center.

7. NORTHERN KENTUCKY UNIVERSITY

	2018-19	2019-20
General Fund	48,477,500	47,974,500
Restricted Funds	182,462,200	189,381,700
Federal Funds	13,075,600	13,075,600
TOTAL	244,015,300	250,431,800

(1) **Kentucky Center for Mathematics:** Included in the above General Fund appropriation is \$1,323,900 in each fiscal year for the Kentucky Center for Mathematics.

(2) **Conveyance of Property:** Notwithstanding KRS 45.777 and 164A.575(7), Northern Kentucky University may dispose of real property and improvements located in Covington/Park Hills, Kentucky that will become surplus to its needs and retain the proceeds from any sale.

8. UNIVERSITY OF KENTUCKY

	2018-19	2019-20
General Fund	250,224,300	249,109,400
Restricted Funds	3,412,380,500	3,698,123,000
Federal Funds	253,980,300	270,764,400
TOTAL	3,916,585,100	4,217,996,800

(1) **Veterinary Diagnostic Laboratory and Division of Regulatory Services:** Included in the above General Fund appropriation is \$3,900,000 in each fiscal year to support the operations of the Veterinary Diagnostic Laboratory and the Division of Regulatory Services.

(2) **Center for Applied Energy Research:** Included in the above General Fund appropriation is \$2,670,000 in each fiscal year for the Center for Applied Energy Research.

(3) **Robinson Scholars Program:** Notwithstanding KRS 42.4582 and 42.4585, the quarterly calculation and transfer of the funds shall be made only after each quarterly installment of the annual appropriation of \$1,000,000 in fiscal year 2018-2019 to the University of Kentucky budget unit for the Robinson Scholars Program.

(4) **Mining Engineering Scholarship Program:** Notwithstanding KRS 42.4582 and 42.4585, the quarterly calculation and transfer of the funds shall be made only after each quarterly installment of the annual appropriation of \$350,000 in each fiscal year to the University of Kentucky budget unit for the Mining Engineering Scholarship Program.

(5) **Center for Entrepreneurship:** Included in the above General Fund appropriation is \$600,000 in each fiscal year for the Center for Entrepreneurship.

(6) **Debt Service:** Included in the above General Fund appropriation is \$848,500 in fiscal year 2018-2019 and \$2,545,500 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

9. UNIVERSITY OF LOUISVILLE

	2018-19	2019-20
General Fund	124,610,600	123,290,400
Restricted Funds	1,018,178,700	1,037,241,100
Federal Funds	98,456,500	98,456,500
TOTAL	1,241,245,800	1,258,988,000

(1) **Autism Training:** Included in the above General Fund appropriation is \$150,000 in each fiscal year for autism training.

10. WESTERN KENTUCKY UNIVERSITY

	2018-19	2019-20
General Fund	70,034,800	69,344,200
Restricted Funds	311,690,200	316,874,200
Federal Funds	32,340,000	32,340,000
TOTAL	414,065,000	418,558,400

(1) **Kentucky Mesonet:** Included in the above General Fund appropriation is \$750,000 in each fiscal year for the Kentucky Mesonet at the Kentucky Climate Center.

(2) **Gatton Academy:** Included in the above General Fund appropriation is \$4,747,700 in each fiscal year for the Gatton Academy for Mathematics and Science.

11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2018-19	2019-20
General Fund	167,729,000	166,034,000
Restricted Funds	426,692,100	426,692,100
Federal Funds	244,555,000	244,555,000
TOTAL	838,976,100	837,281,100

(1) **Firefighters Foundation Program Fund:** Included in the above Restricted Funds appropriation is \$46,962,000 in fiscal year 2018-2019 and \$48,136,400 in fiscal year 2019-2020 for the Firefighters Foundation Program Fund. Notwithstanding KRS 95A.250(1), supplemental payments for each qualified professional firefighter under the Firefighters Foundation Program Fund shall be \$4,000 in each fiscal year. Notwithstanding any statute to

the contrary, employers of eligible local units of government shall receive an administrative expense reimbursement in an amount equal to 7.65 percent of the total annual supplement received greater than \$3,100 for each qualified professional firefighter. Total reimbursements to all employers of this subsection shall not exceed \$250,000 in each fiscal year. If there are insufficient funds to provide for the full provision of the administrative fee, then the amount shall be distributed pro rata to each eligible local unit of government so that each receives the same percentage attributable to its total receipts of the cash salary supplement. Notwithstanding KRS 95A.262(2), the aid payment for each qualified volunteer fire department shall be \$11,000 in each fiscal year. Notwithstanding KRS 95A.200 to 95A.300, \$3,600,000 in fiscal year 2018-2019 shall be transferred to support projects as set forth in Part II, Capital Projects Budget, of this Act.

(2) **Firefighters Training Center Fund:** Notwithstanding KRS 95A.262(3), \$500,000 in Restricted Funds is provided in each fiscal year for the Firefighters Training Center Fund.

(3) **Guaranteed Energy Savings Performance Contracts:** Notwithstanding KRS 56.770 and 56.774, guaranteed energy savings performance contracts may be executed for buildings operated by the Kentucky Community and Technical College System under agreements governed by KRS 164.593.

(4) **Adult Agriculture Program:** Included in the above General Fund appropriation is \$1,000,000 in each fiscal year for the Adult Agriculture Program.

12. POSTSECONDARY EDUCATION PERFORMANCE FUND

	2018-19	2019-20
General Fund	31,000,000	38,665,800
TOTAL - POSTSECONDARY EDUCATION		
	2018-19	2019-20
General Fund (Tobacco)	7,000,000	6,686,500
General Fund	1,134,734,100	1,142,497,300
Restricted Funds	5,859,683,200	6,180,287,000
Federal Funds	870,820,700	896,449,300
TOTAL	7,872,238,000	8,225,920,100

L. PUBLIC PROTECTION CABINET

Budget Units

1. SECRETARY

	2018-19	2019-20
Restricted Funds	6,494,100	6,581,000

2. KENTUCKY CLAIMS COMMISSION

	2018-19	2019-20
General Fund	1,371,000	1,390,000
Restricted Funds	968,000	968,000
Federal Funds	157,200	157,200
TOTAL	2,496,200	2,515,200

3. PROFESSIONAL LICENSING

	2018-19	2019-20
Restricted Funds	5,768,800	5,819,200

4. BOXING AND WRESTLING AUTHORITY

	2018-19	2019-20
Restricted Funds	178,100	179,600

5. ALCOHOLIC BEVERAGE CONTROL

	2018-19	2019-20
Restricted Funds	8,198,500	8,257,500

6. CHARITABLE GAMING

	2018-19	2019-20
Restricted Funds	4,292,800	4,333,900

7. FINANCIAL INSTITUTIONS

	2018-19	2019-20
Restricted Funds	14,523,000	14,688,700

8. HORSE RACING COMMISSION

	2018-19	2019-20
General Fund	3,092,300	3,147,700
Restricted Funds	29,736,000	29,745,400
TOTAL	32,828,300	32,893,100

9. HOUSING, BUILDINGS AND CONSTRUCTION

	2018-19	2019-20
General Fund	2,610,800	2,640,400
Restricted Funds	25,483,400	24,063,700
TOTAL	28,094,200	26,704,100

(1) **Funding Flexibility:** Notwithstanding KRS 198B.090(10), 198B.095(2), 198B.4037(2), (3), and (4), 198B.6674, 227.620(5), 227A.050(1) and (2), 227.715, 236.130(3), and 318.136, the Department of Housing, Buildings and Construction may expend, with the approval of the Housing, Buildings and Construction Advisory Committee, any Restricted Funds for programs administered by the Department. The Department shall return any funds transferred within the fiscal biennium.

10. INSURANCE

	2018-19	2019-20
Restricted Funds	20,145,900	20,300,800
Federal Funds	703,500	-0-
TOTAL	20,849,400	20,300,800

TOTAL - PUBLIC PROTECTION CABINET

	2018-19	2019-20
General Fund	7,074,100	7,178,100
Restricted Funds	115,788,600	114,937,800
Federal Funds	860,700	157,200
TOTAL	123,723,400	122,273,100

M. TOURISM, ARTS AND HERITAGE CABINET**Budget Units****1. SECRETARY**

	2018-19	2019-20
General Fund	3,158,700	3,213,700

Restricted Funds	14,703,200	14,703,200
TOTAL	17,861,900	17,916,900

2. ARTISANS CENTER

	2018-19	2019-20
General Fund	477,900	486,900
Restricted Funds	1,605,900	1,601,300
Road Fund	544,000	553,000
TOTAL	2,627,800	2,641,200

3. TOURISM

	2018-19	2019-20
General Fund	3,118,000	3,157,900
Restricted Funds	29,100	29,100
TOTAL	3,147,100	3,187,000

(1) **Whitehaven Welcome Center:** Included in the above General Fund appropriation is \$130,000 in each fiscal year to support the Whitehaven Welcome Center.

4. PARKS

	2017-18	2018-19	2019-20
General Fund	8,831,600	46,549,700	48,111,500
Restricted Funds	-0-	51,840,600	51,840,600
TOTAL	8,831,600	98,390,300	99,952,100

(1) **Park Capital Maintenance and Renovation Fund:** Notwithstanding KRS 148.810, no transfer to the Park Capital Maintenance and Renovation Fund shall be made.

(2) **Debt Service:** Included in the above General Fund appropriation is \$424,500 in fiscal year 2018-2019 and \$1,273,500 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(3) **Capitol Annex Cafeteria:** Included in the above General Fund appropriation is \$234,400 in each fiscal year to support the Capitol Annex cafeteria operated by the Department of Parks.

5. HORSE PARK COMMISSION

	2018-19	2019-20
General Fund	1,673,700	1,708,100
Restricted Funds	10,880,000	11,084,400
TOTAL	12,553,700	12,792,500

6. STATE FAIR BOARD

	2018-19	2019-20
General Fund	4,214,000	4,730,900
Restricted Funds	47,212,100	47,207,100
TOTAL	51,426,100	51,938,000

(1) **Debt Service:** Included in the above General Fund appropriation is \$142,500 in fiscal year 2018-2019 and \$617,000 in fiscal year 2019-2020 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

7. FISH AND WILDLIFE RESOURCES

	2018-19	2019-20
Restricted Funds	42,071,700	42,599,400
Federal Funds	18,880,200	19,030,900
TOTAL	60,951,900	61,630,300

(1) **Fish and Wildlife Resources Peace Officers' Stipend:** Included in the above Restricted Funds appropriation is sufficient funding for a \$4,000 annual training incentive stipend for Fish and Wildlife Resources conservation officers from the Fish and Game Fund.

(2) **Fees-in-Lieu-of Stream Mitigation Projects:** Fees-in-Lieu-of Stream Mitigation project resources shall be available statewide, to all 120 counties, subject to federal and state regulatory requirements.

(3) **Fees-in-Lieu-of Stream Mitigation Reporting:** The Department of Fish and Wildlife Resources shall develop a report of all projects managed by the Fees-in-Lieu-of Stream Mitigation Program. The Department shall present this report to the Interim Joint Committee on Tourism, Small Business, and Information Technology by August 1 of each year.

8. HISTORICAL SOCIETY

	2018-19	2019-20
General Fund	5,893,700	5,952,400
Restricted Funds	457,800	457,800
Federal Funds	180,000	170,000
TOTAL	6,531,500	6,580,200

9. ARTS COUNCIL

	2018-19	2019-20
General Fund	1,708,700	1,728,900
Restricted Funds	151,600	151,600
Federal Funds	708,500	708,500
TOTAL	2,568,800	2,589,000

10. HERITAGE COUNCIL

	2018-19	2019-20
General Fund	715,900	719,000
Restricted Funds	278,700	278,700
Federal Funds	863,800	863,800
TOTAL	1,858,400	1,861,500

11. KENTUCKY CENTER FOR THE ARTS

	2018-19	2019-20
General Fund	558,300	558,300

TOTAL - TOURISM, ARTS AND HERITAGE CABINET

	2017-18	2018-19	2019-20
General Fund	8,831,600	68,068,600	70,367,600
Restricted Funds	-0-	169,230,700	169,953,200
Federal Funds	-0-	20,632,500	20,773,200
Road Fund	-0-	544,000	553,000
TOTAL	8,831,600	258,475,800	261,647,000

N. BUDGET RESERVE TRUST FUND**Budget Units****1. BUDGET RESERVE TRUST FUND**

	2018-19	2019-20
General Fund	87,414,100	208,761,200

PART II**CAPITAL PROJECTS BUDGET**

(1) Capital Construction Fund Appropriations and Reauthorizations: Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2018-2020 fiscal biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

(2) Expiration of Existing Line-Item Capital Construction Projects: All appropriations to existing line-item capital construction projects expire on June 30, 2018, unless reauthorized in this Act with the following exceptions: (a) A construction or purchase contract for the project shall have been awarded by June 30, 2018; (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds, if the authorized project completes an initial draw on the line of credit within the fiscal biennium immediately subsequent to the original authorization; and (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties by June 30, 2018. Notwithstanding the criteria set forth in this subsection, the disposition of 2018-2020 fiscal biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(5)(c).

(3) Bond Proceeds Investment Income: Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project shall be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations.

(4) Appropriations for Projects Not Line-Itemized: Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer projects; Repair of State-Owned Dams; Guaranteed Energy Savings Performance Contract projects; Wetland and Stream Mitigation projects; Flood Control projects; Bond-funded and Restricted Fund maintenance pools; Postsecondary Education pools; and Commonwealth Office of Technology Infrastructure Upgrades. Notwithstanding any statute to the contrary, projects estimated to cost over \$1,000,000 and equipment estimated to cost over \$200,000 shall be reported to the Capital Projects and Bond Oversight Committee.

(5) Capital Construction and Equipment Purchase Contingency Account: If funds in the Capital Construction and Equipment Purchase Contingency Account are not sufficient, then expenditures of the fund are to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

(6) Emergency Repair, Maintenance, and Replacement Account: If funds in the Emergency Repair, Maintenance, and Replacement Account are not sufficient, then expenditures of the fund are to be paid first from the General Fund Surplus Account (KRS 48.700), if available, or from the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

A. GENERAL GOVERNMENT

Budget Units	2018-19	2019-20
1. DEPARTMENT OF VETERANS' AFFAIRS		
001. Nurse Call System		
Investment Income	1,550,000	-0-
002. Maintenance Pool - 2018-2020		

Investment Income	400,000	400,000
-------------------	---------	---------

003. Construct Bowling Green Veterans' Center Reauthorization (\$19,500,000 Federal Funds and \$10,500,000 Bond Funds)

(1) Reauthorization: The above project from 2017 Ky. Acts ch. 194, sec. 1 shall be reauthorized for the 2018-2020 fiscal biennium.

2. KENTUCKY INFRASTRUCTURE AUTHORITY

001. KIA Fund A - Federally Assisted Wastewater Program - 2018-2020

Federal Funds	17,005,000	17,005,000
Bond Funds	3,401,000	3,401,000
Agency Bonds	30,000,000	-0-
TOTAL	50,406,000	20,406,000

(1) Permitted Use of Funds: The Bond Funds shall be used to meet the state match requirement for federal funds for the Wastewater State Revolving Loan Fund Program.

002. KIA Fund F - Drinking Water Revolving Loan Program - 2018-2020

Federal Funds	12,941,000	12,941,000
Bond Funds	2,588,000	2,588,000
Agency Bonds	30,000,000	-0-
TOTAL	45,529,000	15,529,000

(1) Permitted Use of Funds: The Bond Funds shall be used to meet the state match requirement for federal funds for the Safe Drinking Water State Revolving Loan Fund Program.

3. MILITARY AFFAIRS

001. Construct Two AC 130 Hangars Bluegrass Station

Other Funds	21,000,000	-0-
-------------	------------	-----

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

002. Construct Industrial Building at Bluegrass Station

Other Funds	15,000,000	-0-
-------------	------------	-----

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

003. Construct Multi-purpose Building Bluegrass Station

Other Funds	15,000,000	-0-
-------------	------------	-----

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

004. Bluegrass Station Facility Maintenance Pool - 2018-2020

Restricted Funds	6,000,000	6,000,000
------------------	-----------	-----------

005. Armory Modernization Pool - 2018-2020

Federal Funds	6,000,000	-0-
Bond Funds	2,000,000	-0-
TOTAL	8,000,000	-0-

006. Construct Response Group Building KyANG Phase 1

Federal Funds	7,200,000	-0-
---------------	-----------	-----

007. Construct WHFRTC Qualification Training Range

Federal Funds	6,515,000	-0-
---------------	-----------	-----

008. Maintenance Pool - 2018-2020		
Investment Income	1,000,000	1,000,000
009. Install Solar Panels at Armories Statewide		
Restricted Funds	413,000	-0-
Federal Funds	1,238,000	-0-
TOTAL	1,651,000	-0-
010. Construct Addition Armory 4 Frankfort		
Restricted Funds	300,000	-0-
Federal Funds	902,000	-0-
TOTAL	1,202,000	-0-
011. Demolish Combined Support Maintenance Building		
Federal Funds	825,000	-0-
012. Construct Structural Repairs Harrodsburg Armory Reauthorization (\$330,000 Restricted Funds, \$330,000 Federal Funds)		
013. Construct Structural Repairs Walton Armory Reauthorization (\$330,000 Restricted Funds, \$330,000 Federal Funds)		
014. Construct Building 352 - Bluegrass Station Reauthorization (\$7,000,000 Other Funds)		
4. ATTORNEY GENERAL		
001. Franklin County - Lease		
5. UNIFIED PROSECUTORIAL SYSTEM		
a. Commonwealth's Attorneys		
001. Jefferson County - Lease		
6. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS		
a. Nursing		
001. Jefferson County - Lease		
7. KENTUCKY RIVER AUTHORITY		
001. Design and Repair Lock and Dam 5		
Restricted Funds	1,000,000	2,250,000
002. Design and Repair Dam 7 - Additional Reauthorization (\$3,081,000 Agency Bonds)		
Restricted Funds	779,000	-0-
003. Design and Repair Dam 6 - Additional Reauthorization (\$2,299,000 Agency Bonds)		
Restricted Funds	301,000	-0-
8. SCHOOL FACILITIES CONSTRUCTION COMMISSION		
001. Offers of Assistance - 2016-2018		
Bond Funds	58,000,000	-0-
002. School Facilities Construction Commission Reauthorization (\$91,400,000 Bond Funds)		
003. Special Offers of Assistance - 2018-2020		
Bond Funds	15,263,000	-0-
9. TEACHERS' RETIREMENT SYSTEM		
001. Pension Management System Modifications		

Restricted Funds	4,000,000	1,000,000
------------------	-----------	-----------

B. ECONOMIC DEVELOPMENT CABINET

(1) **Economic Development Bond Issues:** Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond Program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

(2) **Use of New Economy Funds:** Notwithstanding KRS 154.12-100, 154.12-278(4) and (5), and 154.20-035, the Secretary of the Cabinet for Economic Development may use funds appropriated in the Economic Development Bond Program, High-Tech Construction/Investment Pool, and the Kentucky Economic Development Finance Authority Loan Pool interchangeably for economic development projects.

(3) **Economic Development Projects:** The Cabinet for Economic Development may use unobligated or uncommitted bonds that have been previously authorized in 2014 Ky. Acts ch. 117, Pt. II, B., 1. and 2016 Ky. Acts ch. 149, Pt. II, B., 1. for economic development projects in the 2018-2020 fiscal biennium.

C. DEPARTMENT OF EDUCATION

Budget Units	2018-19	2019-20
1. OPERATIONS AND SUPPORT SERVICES		
001. Maintenance Pool - 2018-2020		
Investment Income	675,000	675,000

D. EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Budget Units	2018-19	2019-20
1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT		
001. Maintenance Pool - 2018-2020		
Investment Income	400,000	400,000
2. KENTUCKY EDUCATIONAL TELEVISION		
001. Transmitter and Repack		
Bond Funds	2,100,000	-0-
002. Maintenance Pool - 2018-2020		
Investment Income	300,000	300,000
3. LIBRARIES AND ARCHIVES		
a. General Operations		
001. Franklin County - Lease		
4. EMPLOYMENT AND TRAINING		
001. Replace Unemployment Insurance System		
Restricted Funds	5,440,000	5,000,000
002. Hardin County - Lease		
003. Kenton County - Lease		

E. ENERGY AND ENVIRONMENT CABINET

Budget Units	2018-19	2019-20
1. SECRETARY		
001. Maintenance Pool - 2018-2020		

Investment Income	200,000	200,000
-------------------	---------	---------

2. ENVIRONMENTAL PROTECTION

001. State-Owned Dam Repair - 2018-2020

Bond Funds	10,000,000	-0-
------------	------------	-----

F. FINANCE AND ADMINISTRATION CABINET

Budget Units	2018-19	2019-20
---------------------	----------------	----------------

1. FACILITIES AND SUPPORT SERVICES

001. L&N Building Security and Structural Upgrades

Bond Funds	9,800,000	-0-
------------	-----------	-----

002. Maintenance Pool - 2018-2020

Restricted Funds	2,000,000	2,000,000
------------------	-----------	-----------

Bond Funds	2,850,000	2,850,000
------------	-----------	-----------

TOTAL	4,850,000	4,850,000
-------	-----------	-----------

003. Upgrade Capitol Mechanical and Electrical System, Phase I

Bond Funds	4,500,000	-0-
------------	-----------	-----

004. Emergency Generator Repair or Replacement, COT/CHR

Bond Funds	2,600,000	-0-
------------	-----------	-----

005. Guaranteed Energy Savings Performance Contracts

2. COMMONWEALTH OFFICE OF TECHNOLOGY

(1) Transfer of Restricted Funds from Operating Budget: For the major equipment purchases displayed in this section funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

001. Legacy System Retirement

Bond Funds	10,000,000	10,000,000
------------	------------	------------

002. Enterprise Infrastructure - 2018-2020

Restricted Funds	4,000,000	4,000,000
------------------	-----------	-----------

003. Boone County - Lease

004. Franklin County - Lease

3. REVENUE

001. Integrated Tax System

Bond Funds	90,800,000	1,700,000
------------	------------	-----------

4. KENTUCKY LOTTERY CORPORATION

001. IBM iSeries System Upgrades

Other Funds	-0-	2,400,000
-------------	-----	-----------

002. Data Processing, Telecommunications, and Related Equipment

Other Funds	-0-	1,000,000
-------------	-----	-----------

003. Enterprise Resource Planning Upgrade

Other Funds	700,000	-0-
-------------	---------	-----

G. HEALTH AND FAMILY SERVICES CABINET

Budget Units	2018-19	2019-20
---------------------	----------------	----------------

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT**001. Maintenance Pool - 2018-2020**

Bond Funds	2,375,000	2,375,000
------------	-----------	-----------

002. Fayette County - Lease**003. Clay County - Lease****004. Greenup County - Lease****005. Marshall County - Lease****006. Muhlenberg County - Lease****007. Perry County - Lease****2. HEALTH BENEFIT EXCHANGE****001. Franklin County - Lease****3. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS****001. Jefferson County - Lease****4. BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES****001. HVAC System Replacement - Hazelwood**

Bond Funds	8,000,000	-0-
------------	-----------	-----

002. Renovate/Replace Cottages - Oakwood, Phase I

Bond Funds	4,000,000	-0-
------------	-----------	-----

003. Electrical and Telecommunications Upgrade - Western State Hospital, Phase II

Bond Funds	3,410,000	-0-
------------	-----------	-----

5. PUBLIC HEALTH**001. Scan and Image Historical Records**

Restricted Funds	5,000,000	-0-
------------------	-----------	-----

002. Budget, Accounting, and Reporting System

Restricted Funds	4,220,000	-0-
------------------	-----------	-----

003. Vital Statistics Digitized System

Restricted Funds	2,700,000	-0-
------------------	-----------	-----

004. Electronic Health Record System

Restricted Funds	2,400,000	-0-
------------------	-----------	-----

6. INCOME SUPPORT**001. Franklin County - Lease****7. COMMUNITY BASED SERVICES****001. Boone County - Lease****002. Boyd County - Lease****003. Campbell County - Lease****004. Daviess County - Lease****005. Fayette County - Lease**

- 006. Hardin County - Lease
- 007. Johnson County - Lease
- 008. Kenton County - Lease
- 009. Madison County - Lease
- 010. Shelby County - Lease
- 011. Warren County - Lease

H. JUSTICE AND PUBLIC SAFETY CABINET

Budget Units	2018-19	2019-20
1. CRIMINAL JUSTICE TRAINING		
001. Maintenance Pool - 2018-2020		
Restricted Funds	3,559,000	3,000,000
2. JUVENILE JUSTICE		
001. Maintenance Pool - 2018-2020		
Investment Income	1,000,000	1,000,000
3. STATE POLICE		
001. Two-Way Radio System Replacement, Phase I		
Bond Funds	-0-	35,100,000
002. Laboratory Updates		
Restricted Funds	1,442,500	1,442,500
003. Maintenance Pool - 2018-2020		
Investment Income	750,000	750,000
4. CORRECTIONS		
a. Adult Correctional Institutions		
001. Maintenance Pool - 2018-2020		
Bond Funds	3,000,000	3,000,000
002. Replace Perimeter Fence, Kentucky State Reformatory		
Bond Funds	3,116,000	-0-
003. Demolish and Repair Tower Kentucky State Reformatory Reauthorization and Reallocation (\$7,871,000 Bond Funds)		
(1) Reauthorization and Reallocation: The above project is authorized from a reallocation of the projects set forth in 2016 Ky. Acts ch. 149, Part II, H., 4., a., 002. and 003..		
b. Community Services and Local Facilities		
001. Fayette County - Lease		
5. PUBLIC ADVOCACY		
001. Franklin County - Lease		
002. Fayette County - Lease		

I. LABOR CABINET

Budget Units	2018-19	2019-20
1. SECRETARY		
001. Claims Payment Management System		

Restricted Funds	1,418,000	1,042,000
------------------	-----------	-----------

002. Franklin County - Lease

2. WORKERS' CLAIMS

001. Franklin County - Lease

J. POSTSECONDARY EDUCATION

Budget Units	2017-18	2018-19	2019-20
--------------	---------	---------	---------

1. COUNCIL ON POSTSECONDARY EDUCATION

001. Franklin County - Lease

2. KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION

001. Jefferson County - Lease

3. EASTERN KENTUCKY UNIVERSITY

001. Replace and Renovate Student Housing

Other Funds	-0-	50,000,000	-0-
-------------	-----	------------	-----

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

002. Construct Regional Health Facility

Federal Funds	-0-	15,000,000	-0-
---------------	-----	------------	-----

003. Construct Alumni and Welcome Center

Other Funds	-0-	13,000,000	-0-
-------------	-----	------------	-----

004. Campus Data Network Pool

Restricted Funds	-0-	5,000,000	5,000,000
------------------	-----	-----------	-----------

005. Miscellaneous Maintenance Pool - 2018-2020

Restricted Funds	-0-	5,000,000	5,000,000
------------------	-----	-----------	-----------

006. Renovate Mechanical Systems Pool

Restricted Funds	-0-	5,000,000	5,000,000
------------------	-----	-----------	-----------

007. Academic Computing Pool

Restricted Funds	-0-	4,000,000	4,000,000
------------------	-----	-----------	-----------

008. Improve Campus Pedestrian, Parking, and Transport

Restricted Funds	-0-	12,000,000	-0-
------------------	-----	------------	-----

Agency Bonds	-0-	15,000,000	-0-
--------------	-----	------------	-----

Other Funds	-0-	3,000,000	-0-
-------------	-----	-----------	-----

TOTAL	-0-	30,000,000	-0-
-------	-----	------------	-----

009. Upgrade and Improve Residence Halls

Restricted Funds	-0-	5,000,000	3,000,000
------------------	-----	-----------	-----------

010. Scientific and Research Equipment Pool

Restricted Funds	-0-	3,000,000	-0-
------------------	-----	-----------	-----

Federal Funds	-0-	2,200,000	-0-
---------------	-----	-----------	-----

Other Funds	-0-	2,200,000	-0-
-------------	-----	-----------	-----

TOTAL	-0-	7,400,000	-0-
-------	-----	-----------	-----

011. Administrative Computing Pool

Restricted Funds	-0-	3,250,000	3,250,000
012. Aviation Acquisition			
Restricted Funds	-0-	5,000,000	-0-
013. Innovation and Commercialization Pool			
Restricted Funds	-0-	5,000,000	-0-
Other Funds	-0-	10,000,000	-0-
TOTAL	-0-	15,000,000	-0-
014. Repair/Replace Infrastructure/Building Systems			
Restricted Funds	-0-	5,000,000	-0-
015. Construct EKU Early Childhood Center			
Restricted Funds	-0-	4,200,000	-0-
016. Renovate Women's Softball and Soccer Complex			
Other Funds	-0-	3,000,000	-0-
017. Upgrade and Improve Athletics Facilities			
Restricted Funds	-0-	3,000,000	-0-
018. Construct Student Health Center			
Other Funds	-0-	2,705,000	-0-
019. Chemistry and Translational Research Pool			
Restricted Funds	-0-	675,000	-0-
Other Funds	-0-	350,000	-0-
TOTAL	-0-	1,025,000	-0-
020. Natural Areas Improvement Pool			
Restricted Funds	-0-	825,000	-0-
021. Guaranteed Energy Savings Performance Contracts			
022. Lease - Aviation			
023. New Housing Space - Lease			
024. Madison County - Student Housing - Lease			
025. Construct New Model Laboratory School			
Agency Bonds	-0-	45,000,000	-0-
026. Comprehensive Aviation Expansion			
Restricted Funds	-0-	10,000,000	-0-
027. Campus Infrastructure Upgrade			
Other Funds	-0-	35,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
028. Renovate Moore-Memorial-Roark Building			
Agency Bonds	-0-	40,000,000	-0-
029. Renovate and Upgrade Heat Plant			
Restricted Funds	-0-	5,500,000	-0-
030. Upgrade Steam Lines			

Other Funds	-0-	10,000,000	-0-
031. Property Acquisitions Pool			
Restricted Funds	-0-	3,000,000	-0-
Other Funds	-0-	3,000,000	-0-
TOTAL	-0-	6,000,000	-0-
032. Madison County Land Lease			
4. KENTUCKY STATE UNIVERSITY			
001. Renovation and Renewal Education and General Projects Pool			
Agency Bonds	-0-	5,950,000	-0-
002. Replace Enterprise Resource Planning System			
Restricted Funds	-0-	5,000,000	-0-
003. Upgrade Information Technology Infrastructure 2018-2020			
Restricted Funds	-0-	5,000,000	-0-
004. Expand Campus Communications Infrastructure			
Restricted Funds	-0-	2,354,000	-0-
005. Repair Boilers and Aging Distribution Lines - Phase II			
Agency Bonds	-0-	11,410,000	-0-
006. Develop Campus Master Plan			
Agency Bonds	-0-	250,000	-0-
007. Emergency Security System			
Restricted Funds	-0-	254,000	-0-
5. MOREHEAD STATE UNIVERSITY			
001. Construct University Welcome Center/Alumni House			
Restricted Funds	-0-	1,927,000	-0-
Other Funds	-0-	6,000,000	-0-
TOTAL	-0-	7,927,000	-0-
002. Capital Renewal and Maintenance Pool E&G			
Restricted Funds	-0-	3,100,000	3,100,000
003. Upgrade Instructional PCs/LANS/Peripherals			
Restricted Funds	-0-	4,000,000	-0-
004. Renovate Howell-McDowell			
Restricted Funds	-0-	3,985,000	-0-
005. Capital Renewal and Maintenance Pool - Auxiliary			
Restricted Funds	-0-	3,961,000	-0-
006. Comply with ADA - E&G			
Restricted Funds	-0-	3,837,000	-0-
007. Renovate Alumni Tower Ground Floor			
Restricted Funds	-0-	3,812,000	-0-
008. Reconstruct Central Campus			

Restricted Funds	-0-	3,075,000	-0-
009. Replace Exterior Precast Panels - Nunn Hall			
Restricted Funds	-0-	3,075,000	-0-
010. Enhance Network/Infrastructure Resources - Additional Reauthorization (\$8,945,000 Restricted Funds)			
Restricted Funds	-0-	3,000,000	-0-
011. Upgrade Administrative Office Systems			
Restricted Funds	-0-	3,000,000	-0-
012. Renovate Third Street Eats			
Restricted Funds	-0-	2,982,000	-0-
013. Construct New Volleyball Facility - Phase 2			
Restricted Funds	-0-	2,761,000	-0-
014. Upgrade Campus Fire and Security Systems			
Restricted Funds	-0-	2,670,000	-0-
015. Comply with ADA - Auxiliary			
Restricted Funds	-0-	1,991,000	-0-
016. Construct Kentucky Center for Traditional Music Phase II			
Restricted Funds	-0-	1,975,000	-0-
017. Water Plant Sediment Basin			
Restricted Funds	-0-	1,880,000	-0-
018. Replace Electrical Switchgear B			
Restricted Funds	-0-	1,845,000	-0-
019. Enhance Library Automation Resources			
Restricted Funds	-0-	1,539,000	-0-
020. Capital Renewal and Maintenance Pool - University Farm			
Restricted Funds	-0-	1,209,000	-0-
021. Replace Turf on Jacobs Field			
Restricted Funds	-0-	1,060,000	-0-
022. Guaranteed Energy Savings Performance Contracts			
023. Renovate Cartmell Residence Hall Reauthorization (\$15,200,000 Agency Bonds)			

6. MURRAY STATE UNIVERSITY

001. Construct Sorority Suites - Additional Reauthorization (\$13,500,000 Other Funds)			
Other Funds	-0-	19,700,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
002. Construct Residential Suite-Style Housing-Additional Reauthorization (\$20,000,000 Other Funds)			
Other Funds	-0-	13,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
003. Provide Alternate Dining Facility - Additional Reauthorization (\$4,000,000 Other Funds)			
Other Funds	-0-	8,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			

004. Renovate Winslow Cafeteria			
Restricted Funds	-0-	4,673,000	-0-
005. Replace Campus Communications Infrastructure			
Restricted Funds	-0-	4,640,000	-0-
006. College of Science Instructional/Research Equipment Pool			
Restricted Funds	-0-	3,500,000	-0-
007. Demolish Woods Hall			
Restricted Funds	-0-	2,364,000	-0-
008. Renovate White Hall HVAC System			
Restricted Funds	-0-	2,130,000	-0-
009. Install Solar Panels and/or Geothermal Power			
Restricted Funds	-0-	2,054,000	-0-
010. Construct Student Meeting Buildings			
Restricted Funds	-0-	2,000,000	-0-
011. Repairs of Biology Building			
Restricted Funds	-0-	2,000,000	-0-
012. Renovate White Hall Interior			
Restricted Funds	-0-	1,601,000	-0-
013. Install CFSB Center Generator			
Restricted Funds	-0-	1,541,000	-0-
014. Replace CFSB Center Seating			
Restricted Funds	-0-	1,541,000	-0-
015. Renovate Regents Hall Electrical System			
Restricted Funds	-0-	1,486,000	-0-
016. Renovate White Hall Electrical System			
Restricted Funds	-0-	1,373,000	-0-
017. Renovate Hart Hall Electrical System			
Restricted Funds	-0-	1,321,000	-0-
018. Replace White Hall Domestic Water Piping			
Restricted Funds	-0-	1,143,000	-0-
019. Agriculture Instructional Laboratory and Technology Equipment			
Restricted Funds	-0-	800,000	-0-
020. Broadcasting Education Laboratory Equipment			
Restricted Funds	-0-	225,000	-0-
021. Provide Bookstore - Additional Reauthorization (\$8,000,000 Other Funds)			
Other Funds	-0-	216,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
022. Renovate White Hall Reauthorization (\$16,299,000 Agency Bonds)			
023. Complete ADA Compliance Pool - Housing and Dining Reauthorization (\$1,957,000 Agency Bonds)			

024. Guaranteed Energy Savings Performance Contracts**025. Campus Electrical Grid Upgrade**

Restricted Funds	-0-	17,000,000	-0-
------------------	-----	------------	-----

026. Campus Steam Distribution System Replacement

Restricted Funds	-0-	8,000,000	-0-
------------------	-----	-----------	-----

027. Building Systems Pooled Projects Replacements/Repairs

Restricted Funds	-0-	7,000,000	-0-
------------------	-----	-----------	-----

7. NORTHERN KENTUCKY UNIVERSITY**001. Renovate Albright Health Center Phase II**

Restricted Funds	10,500,000	-0-	-0-
Other Funds	6,000,000	-0-	-0-
TOTAL	16,500,000	-0-	-0-

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.**002. Construct Basketball Practice Facility**

Other Funds	-0-	16,000,000	-0-
TOTAL	-0-	16,000,000	-0-

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.**003. Renew E&G Building Systems Projects Pool**

Restricted Funds	-0-	20,000,000	-0-
------------------	-----	------------	-----

004. Enhance Softball and Tennis Complex

Other Funds	-0-	6,500,000	-0-
-------------	-----	-----------	-----

005. Renovate/Expand Baseball Field

Other Funds	-0-	6,000,000	-0-
-------------	-----	-----------	-----

006. Renovate Brown Building

Restricted Funds	-0-	3,000,000	-0-
Other Funds	-0-	1,500,000	-0-
TOTAL	-0-	4,500,000	-0-

007. Replace Water and Sewer Mains

Restricted Funds	-0-	3,900,000	-0-
------------------	-----	-----------	-----

008. New Generation Digital Campus

Restricted Funds	-0-	3,000,000	-0-
------------------	-----	-----------	-----

009. Replace Underground Gas Mains

Restricted Funds	-0-	2,500,000	-0-
------------------	-----	-----------	-----

010. Replace Soccer Stadium Turf

Other Funds	-0-	1,000,000	-0-
-------------	-----	-----------	-----

011. Upgrade Infrastructure for Administrative Systems - Additional Reauthorization (\$1,500,000 Restricted Funds)

Restricted Funds	-0-	500,000	-0-
------------------	-----	---------	-----

012. Campus Telecommunications Upgrade Reauthorization (\$1,500,000 Restricted Funds)

013. Enhance/Upgrade Cyber Security System Reauthorization (\$1,500,000 Restricted Funds)

014. Scientific/Technology Equipment Pool Reauthorization (\$5,000,000 Restricted Funds)

015. Upgrade Instructional Technology Pool Reauthorization (\$3,500,000 Restricted Funds)

016. Academic and Office Space - Lease

017. Guaranteed Energy Savings Performance Contracts

018. Renew/Renovate Fine Arts Center Phase II

Restricted Funds	-0-	45,000,000	-0-
Other Funds	-0-	5,000,000	-0-
TOTAL	-0-	50,000,000	-0-

019. Renew Nunn Hall

Restricted Funds	-0-	12,000,000	-0-
------------------	-----	------------	-----

020. Repair Structural Heaving Landrum/Fine Arts

Restricted Funds	-0-	7,000,000	-0-
------------------	-----	-----------	-----

021. Renovate Campbell Hall

Restricted Funds	-0-	6,000,000	-0-
------------------	-----	-----------	-----

022. Renovate/Replace/Expand Civic Center Building

Restricted Funds	-0-	6,000,000	-0-
Other Funds	-0-	6,000,000	-0-
TOTAL	-0-	12,000,000	-0-

023. Renew/Renovate Steely Library

Restricted Funds	-0-	37,000,000	-0-
------------------	-----	------------	-----

024. Expand Herrmann Science Center

Restricted Funds	-0-	92,000,000	-0-
------------------	-----	------------	-----

025. Renew Kenton Garage

Agency Bonds	-0-	2,400,000	-0-
Other Funds	-0-	2,400,000	-0-
TOTAL	-0-	4,800,000	-0-

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

026. Construct/Acquire New Residence Hall 2016-2018 - Additional Reauthorization (\$28,500,000 Agency Bonds)

Agency Bonds	-0-	12,000,000	-0-
--------------	-----	------------	-----

027. Reconstruct West Side Parking

Agency Bonds	-0-	7,000,000	-0-
Other Funds	-0-	7,000,000	-0-
TOTAL	-0-	14,000,000	-0-

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

028. Construct Research/Innovation Building

Other Funds	-0-	30,000,000	-0-
-------------	-----	------------	-----

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

8. UNIVERSITY OF KENTUCKY**001. Improve Clinical/Ambulatory Service Pool - Additional Reauthorization (\$50,000,000 Restricted Funds)**

Restricted Funds	-0-	50,000,000	-0-
Other Funds	-0-	50,000,000	-0-
TOTAL	-0-	100,000,000	-0-

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

002. Improve UK HealthCare Facilities

Restricted Funds	-0-	310,000,000	-0-
------------------	-----	-------------	-----

003. Construct Greek Housing

Restricted Funds	-0-	36,000,000	-0-
Other Funds	-0-	36,000,000	-0-
TOTAL	-0-	72,000,000	-0-

004. Improve Memorial Coliseum

Other Funds	-0-	30,000,000	-0-
-------------	-----	------------	-----

005. Expand/Renovate/Improve Wildcat Coal Lodge

Other Funds	-0-	21,000,000	-0-
-------------	-----	------------	-----

006. Capital Renewal Maintenance Pool - 2018-2020

Restricted Funds	-0-	20,000,000	-0-
------------------	-----	------------	-----

007. Construct Agriculture Research Facility 1

Restricted Funds	-0-	20,000,000	-0-
------------------	-----	------------	-----

008. Construct/Expand/Renovate Ambulatory Care - UK HealthCare

Restricted Funds	-0-	20,000,000	-0-
------------------	-----	------------	-----

009. Expand/Improve Lexington Theological Seminary Facility

Restricted Funds	-0-	20,000,000	-0-
------------------	-----	------------	-----

010. Improve Building Systems - UK HealthCare - Good Samaritan

Restricted Funds	-0-	20,000,000	-0-
------------------	-----	------------	-----

011. Improve Center for Applied Energy Research Facilities

Restricted Funds	-0-	20,000,000	-0-
------------------	-----	------------	-----

012. Improve UK HealthCare IT Systems

Restricted Funds	-0-	20,000,000	-0-
------------------	-----	------------	-----

013. Improve Markey Cancer Center

Restricted Funds	-0-	20,000,000	-0-
------------------	-----	------------	-----

014. Improve Pence Hall

Restricted Funds	-0-	20,000,000	-0-
------------------	-----	------------	-----

015. Improve Moloney Building

Restricted Funds	-0-	17,000,000	-0-
------------------	-----	------------	-----

016. Renovate/Upgrade Academic Facility 1

Restricted Funds	-0-	16,000,000	-0-
------------------	-----	------------	-----

017. Renovate/Upgrade Academic Facility 2			
Restricted Funds	-0-	16,000,000	-0-
018. Acquire Data Center Hardware			
Restricted Funds	-0-	15,000,000	-0-
019. Construct Library Depository Facility			
Restricted Funds	-0-	15,000,000	-0-
020. Construct/Improve Clinical/Administrative Facilities - UK HealthCare			
Restricted Funds	-0-	15,000,000	-0-
021. Construct/Improve Recreation Quad			
Restricted Funds	-0-	15,000,000	-0-
022. Improve Life Safety			
Restricted Funds	-0-	15,000,000	-0-
023. Improve Spindletop Hall Facilities			
Restricted Funds	-0-	15,000,000	-0-
024. Improve Student Center Space 1			
Restricted Funds	-0-	15,000,000	-0-
025. Improve Student Center Space 2			
Restricted Funds	-0-	15,000,000	-0-
026. Upgrade Dining Facilities - Additional Reauthorization (\$70,000,000 Other Funds)			
Other Funds	-0-	15,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
027. Design Library - Knowledge Center			
Restricted Funds	-0-	14,000,000	-0-
028. Improve Memorial Hall			
Restricted Funds	-0-	13,000,000	-0-
029. Expand Patterson Hall			
Restricted Funds	-0-	12,000,000	-0-
030. Expand/Renovate Storage Facility			
Restricted Funds	-0-	12,000,000	-0-
031. Improve Medical Center Library			
Restricted Funds	-0-	12,000,000	-0-
032. Improve Synthetic Field			
Other Funds	-0-	12,000,000	-0-
033. Renovate/Upgrade Medical Facility			
Restricted Funds	-0-	12,000,000	-0-
034. Construct Equine Campus - Phase II			
Restricted Funds	-0-	11,000,000	-0-
035. Renovate Frazee Hall			
Restricted Funds	-0-	11,000,000	-0-

036. Acquire Telemedicine/Virtual ICU

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

037. Acquire/Improve Senior Center

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

038. Acquire/Renovate Administrative Facility 1

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

039. Acquire/Renovate Administrative Facility 2

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

040. Acquire/Upgrade IT System - UK HealthCare

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

041. Construct Agriculture Machine Research Laboratory

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

042. Construct Agriculture Research Facility 2

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

043. Construct Childcare Center Facility

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

044. Construct Fit-Up Retail Space

Other Funds	-0-	10,000,000	-0-
-------------	-----	------------	-----

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

045. Construct/Renovate Gymnastic Practice Facility

Other Funds	-0-	10,000,000	-0-
-------------	-----	------------	-----

046. Decommission Facilities

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

Other Funds	-0-	20,000,000	-0-
-------------	-----	------------	-----

TOTAL	-0-	30,000,000	-0-
-------	-----	------------	-----

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

047. Fit-Up Academic/Administrative Space 1

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

048. Fit-Up Academic/Administrative Space 2

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

049. Implement Patient Communication System - UK HealthCare

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

050. Improve Building Electrical Systems

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

051. Improve Dentistry Facility

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

052. Improve DLAR Facilities

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

053. Lease - Purchase Campus Infrastructure			
Restricted Funds	-0-	10,000,000	-0-
054. Lease - Purchase Campus IT Systems			
Restricted Funds	-0-	10,000,000	-0-
055. Renovate/Upgrade Academic/Administrative Space 1			
Restricted Funds	-0-	10,000,000	-0-
056. Renovate/Upgrade Academic/Administrative Space 2			
Restricted Funds	-0-	10,000,000	-0-
057. Renovate/Upgrade Academic/Administrative Space 3			
Restricted Funds	-0-	10,000,000	-0-
058. Renovate/Upgrade Academic/Administrative Space 4			
Restricted Funds	-0-	10,000,000	-0-
059. Renovate/Upgrade Academic/Administrative Space 5			
Restricted Funds	-0-	10,000,000	-0-
060. Construct/Renovate Space for Rifle Team			
Other Funds	-0-	9,000,000	-0-
061. Improve Carnahan House			
Restricted Funds	-0-	8,000,000	-0-
062. Lease - Purchase High Performance Computer			
Restricted Funds	-0-	7,000,000	-0-
063. Renovate Multi-Disciplinary Science Building			
Restricted Funds	-0-	7,000,000	-0-
064. Renovate Nursing Units - UK HealthCare			
Restricted Funds	-0-	7,000,000	-0-
065. Acquire/Renovate Golf Facility			
Other Funds	-0-	6,000,000	-0-
066. College of Medicine - Furnishings and Equipment Pool			
Restricted Funds	-0-	6,000,000	-0-
067. Construct Agriculture Showcase and Sales			
Restricted Funds	-0-	6,000,000	-0-
068. Construct Transit Center			
Restricted Funds	-0-	6,000,000	-0-
069. Expand Kentucky Geological Survey Well Sample and Core Repository			
Restricted Funds	-0-	6,000,000	-0-
070. Improve Anderson Tower			
Restricted Funds	-0-	6,000,000	-0-
071. Improve Athletics Facility 1			
Other Funds	-0-	6,000,000	-0-
072. Improve Football Stadium			

Other Funds	-0-	6,000,000	-0-
073. Improve Seaton Center			
Restricted Funds	-0-	6,000,000	-0-
074. Renovate Mineral Industries Building			
Restricted Funds	-0-	6,000,000	-0-
075. Upgrade/Expand Campus Security Platform			
Restricted Funds	-0-	6,000,000	-0-
076. Acquire Equipment/Furnishings Pool			
Other Funds	-0-	5,000,000	-0-
077. ADA Compliance Pool			
Restricted Funds	-0-	5,000,000	-0-
078. Construct Hospice Facility - UK HealthCare			
Restricted Funds	-0-	5,000,000	-0-
079. Construct and Fit-Up Retail Space			
Other Funds	-0-	10,000,000	-0-
080. Construct/Improve Campus Recreation Field 1			
Restricted Funds	-0-	5,000,000	-0-
081. Construct/Improve Campus Recreation Field 2			
Restricted Funds	-0-	5,000,000	-0-
082. Construct/Improve Campus Recreation Field 3			
Restricted Funds	-0-	5,000,000	-0-
083. Improve Athletics Facility 2			
Other Funds	-0-	5,000,000	-0-
084. Improve Baseball Facility			
Other Funds	-0-	5,000,000	-0-
085. Improve Elevator Systems			
Restricted Funds	-0-	5,000,000	-0-
086. Improve Joe Craft Center			
Other Funds	-0-	5,000,000	-0-
087. Improve W.T. Young Facility			
Restricted Funds	-0-	5,000,000	-0-
088. Lease - Purchase Campus Call Center System			
Restricted Funds	-0-	5,000,000	-0-
089. Lease - Purchase Network Security			
Restricted Funds	-0-	5,000,000	-0-
090. Renovate King Library			
Restricted Funds	-0-	5,000,000	-0-
091. Renovate Nutter Facility			
Other Funds	-0-	5,000,000	-0-

092. Renovate Warehouse Space			
Restricted Funds	-0-	5,000,000	-0-
093. Expand/Improve Cooper House			
Restricted Funds	-0-	4,000,000	-0-
094. Improve Football Practice Facility			
Other Funds	-0-	4,000,000	-0-
095. Improve Sturgill Development Building			
Restricted Funds	-0-	4,000,000	-0-
096. Improve/Upgrade Campus Communications Infrastructure			
Restricted Funds	-0-	4,000,000	-0-
097. Repair/Replace Campus Cable Infrastructure			
Restricted Funds	-0-	4,000,000	-0-
098. Relocate Motor Pool			
Restricted Funds	-0-	3,500,000	-0-
099. Construct Cross Country Trail			
Other Funds	-0-	3,000,000	-0-
100. Improve Enterprise Networking 1			
Restricted Funds	-0-	3,000,000	-0-
101. Improve Enterprise Networking 2			
Restricted Funds	-0-	3,000,000	-0-
102. Improve UK Radio Communications System			
Restricted Funds	-0-	3,000,000	-0-
103. Lease - Purchase Voice Infrastructure			
Restricted Funds	-0-	3,000,000	-0-
104. Relocate/Replace Greenhouses			
Restricted Funds	-0-	3,000,000	-0-
105. Renovate Space for a Testing Center			
Restricted Funds	-0-	3,000,000	-0-
106. Renovate/Upgrade Athletics Playing Fields 1			
Other Funds	-0-	3,000,000	-0-
107. Renovate/Upgrade Athletics Playing Fields 2			
Other Funds	-0-	3,000,000	-0-
108. Construct North Farm Agriculture Research Facility			
Restricted Funds	-0-	2,000,000	-0-
109. Improve Administrative and Support Space			
Restricted Funds	-0-	2,000,000	-0-
110. Improve Building Systems - UK HealthCare			
Restricted Funds	-0-	20,000,000	-0-
111. Purchase Transport Buses			

Restricted Funds	-0-	2,000,000	-0-
112. Renovate Dickey Hall			
Restricted Funds	-0-	2,000,000	-0-
113. Renovate Nursing Building			
Restricted Funds	-0-	2,000,000	-0-
114. Purchase Parking Access Equipment			
Restricted Funds	-0-	1,500,000	-0-
115. UK Mobile Communication Center			
Restricted Funds	-0-	400,000	-0-
116. Construct Student Housing Pool Reauthorization (\$100,000,000 Other Funds, \$50,000,000 Restricted Funds)			
Restricted Funds	-0-	50,000,000	-0-
Other Funds	-0-	100,000,000	-0-
TOTAL	-0-	150,000,000	-0-

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

117. Guaranteed Energy Savings Performance Contracts

Restricted Funds	-0-	1,000,000	-0-
------------------	-----	-----------	-----

118. Guaranteed Energy Savings Performance Contracts - UK HealthCare

Restricted Funds	-0-	1,000,000	-0-
------------------	-----	-----------	-----

- 119. Lease - Administrative Space**
- 120. Lease - College of Medicine 1**
- 121. Lease - College of Medicine 2**
- 122. Lease - College of Medicine 3**
- 123. Lease - College of Medicine 4**
- 124. Lease - College of Medicine 5**
- 125. Lease - College of Medicine 6**
- 126. Lease - Good Samaritan - UK HealthCare**
- 127. Lease - Grant Projects 1**
- 128. Lease - Grant Projects 2**
- 129. Lease - Grant Projects 3**
- 130. Lease - Health Affairs Office**
- 131. Lease - Health Affairs Office 10**
- 132. Lease - Health Affairs Office 11**
- 133. Lease - Health Affairs Office 12**
- 134. Lease - Health Affairs Office 13**
- 135. Lease - Health Affairs Office 14**
- 136. Lease - Health Affairs Office 15**
- 137. Lease - Health Affairs Office 2**
- 138. Lease - Health Affairs Office 3**

139. Lease - Health Affairs Office 4
140. Lease - Health Affairs Office 5
141. Lease - Health Affairs Office 6
142. Lease - Health Affairs Office 7
143. Lease - Health Affairs Office 8
144. Lease - Health Affairs Office 9
145. Lease - Off Campus 1
146. Lease - Off Campus 2
147. Lease - Off Campus 3
148. Lease - Off Campus 4
149. Lease - Off Campus 5
150. Lease - Off Campus 6
151. Lease - Off Campus 7
152. Lease - Off Campus 8
153. Lease - Off Campus 9
154. Lease - Off Campus 10
155. Lease - Off Campus 11
156. Lease - Off Campus 12
157. Lease - Off Campus 13
158. Lease - Off Campus Athletics 1
159. Lease - Off Campus Athletics 2
160. Lease - Off Campus Housing 1
161. Lease - Off Campus Housing 2
162. Lease - Rural Health Expansion - Perry County
163. Lease - UK HealthCare Grant Project 1
164. Lease - UK HealthCare Grant Project 2
165. Lease - UK HealthCare Off Campus Facility 1
166. Lease - UK HealthCare Off Campus Facility 2
167. Lease - UK HealthCare Off Campus Facility 3
168. Lease - UK HealthCare Off Campus Facility 4
169. Lease - UK HealthCare Off Campus Facility 5
170. Lease - UK HealthCare Off Campus Facility 6
171. Lease - UK HealthCare Off Campus Facility 7
172. Lease - UK HealthCare Off Campus Facility 8
173. Lease - UK HealthCare Off Campus Facility 9
174. Lease - UK HealthCare Off Campus Facility 10
175. Lease - UK HealthCare Off Campus Facility 11
176. Lease - UK HealthCare Off Campus Facility 12
177. Renew/Modernize Facilities

Restricted Funds	-0-	125,000,000	-0-
Agency Bonds	-0-	125,000,000	-0-
TOTAL	-0-	250,000,000	-0-
178. Renovate/Upgrade HealthCare Facilities			
Agency Bonds	-0-	75,000,000	-0-
179. Construct Digital Village Building #3			
Restricted Funds	-0-	55,000,000	-0-
Other Funds	-0-	55,000,000	-0-
TOTAL	-0-	110,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
180. Construct Engineering Center Building			
Restricted Funds	-0-	110,000,000	-0-
181. Construct Housing			
Agency Bonds	-0-	50,000,000	-0-
182. Acquire/Renovate Housing			
Restricted Funds	-0-	40,000,000	-0-
Other Funds	-0-	35,000,000	-0-
TOTAL	-0-	75,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
183. Renovate/Improve Housing			
Agency Bonds	-0-	50,000,000	-0-
184. Renovate Chemistry/Physics Building			
Restricted Funds	-0-	54,000,000	-0-
185. Upgrade/Renovate/Expand Research Labs			
Restricted Funds	-0-	50,000,000	-0-
186. Construct Retail/Parking Facility 1			
Other Funds	-0-	75,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
187. Construct Tennis Facility			
Other Funds	-0-	35,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
188. Improve Funkhouser Building			
Restricted Funds	-0-	60,000,000	-0-
189. Repair/Upgrade/Expand Central Plants			
Restricted Funds	-0-	112,000,000	-0-
190. Improve McVey Hall			
Restricted Funds	-0-	35,000,000	-0-
191. Improve Barnhart Building			
Restricted Funds	-0-	34,000,000	-0-

192. Improve Jacobs Science Bldg.

Restricted Funds	-0-	32,000,000	-0-
------------------	-----	------------	-----

193. Expand/Improve Kastle Hall

Restricted Funds	-0-	43,000,000	-0-
------------------	-----	------------	-----

194. Renovate Campus Core Quadrangle Facilities

Restricted Funds	-0-	52,000,000	-0-
------------------	-----	------------	-----

195. Improve Reynolds Building 1

Restricted Funds	-0-	52,000,000	-0-
------------------	-----	------------	-----

Other Funds	-0-	52,000,000	-0-
-------------	-----	------------	-----

TOTAL	-0-	104,000,000	-0-
-------	-----	-------------	-----

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

196. Renovate Taylor Education Building

Restricted Funds	-0-	40,000,000	-0-
------------------	-----	------------	-----

197. Construct School of Music Instrumental Hall

Restricted Funds	-0-	30,000,000	-0-
------------------	-----	------------	-----

198. Expand/Improve Johnson Center

Restricted Funds	-0-	30,000,000	-0-
------------------	-----	------------	-----

199. Improve Grehan Building

Restricted Funds	-0-	23,000,000	-0-
------------------	-----	------------	-----

200. Improve Scovell Hall

Restricted Funds	-0-	40,000,000	-0-
------------------	-----	------------	-----

201. Research Equipment Replacement

Restricted Funds	-0-	30,000,000	-0-
------------------	-----	------------	-----

202. Acquire Land

Restricted Funds	-0-	50,000,000	-0-
------------------	-----	------------	-----

203. Construct New Alumni Center

Other Funds	-0-	38,000,000	-0-
-------------	-----	------------	-----

204. Improve Coldstream Research Campus

Restricted Funds	-0-	40,000,000	-0-
------------------	-----	------------	-----

205. Construct/Improve Facilities Office Building

Restricted Funds	-0-	55,000,000	-0-
------------------	-----	------------	-----

206. Construct Facilities Shops & Storage Facility

Restricted Funds	-0-	27,000,000	-0-
------------------	-----	------------	-----

207. Improve Campus Parking and Transportation System

Restricted Funds	-0-	50,000,000	-0-
------------------	-----	------------	-----

Other Funds	-0-	100,000,000	-0-
-------------	-----	-------------	-----

TOTAL	-0-	150,000,000	-0-
-------	-----	-------------	-----

(1) Authorization: The above authorization is approved pursuant to KRS 45.763.

208. Construct Retail/Parking Facility 2

Other Funds	-0-	75,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
209. Improve Parking Garage 2			
Restricted Funds	-0-	30,000,000	-0-
210. Improve Parking Garage 1			
Restricted Funds	-0-	30,000,000	-0-
211. Improve Civil/Site Infrastructure			
Restricted Funds	-0-	25,000,000	-0-
Other Funds	-0-	25,000,000	-0-
TOTAL	-0-	50,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
212. Improve Electrical Infrastructure			
Restricted Funds	-0-	28,000,000	-0-
213. Improve Mechanical Infrastructure			
Restricted Funds	-0-	26,000,000	-0-
214. Improve Building Mechanical Systems			
Restricted Funds	-0-	35,000,000	-0-
215. Repair Emergency Infrastructure/Bldg. Systems			
Restricted Funds	-0-	25,000,000	-0-
216. Improve Building Shell Systems			
Restricted Funds	-0-	40,000,000	-0-
217. Construct Police Headquarters			
Restricted Funds	-0-	27,000,000	-0-
218. Renovate/Upgrade Academic/Administrative Space			
Restricted Funds	-0-	25,000,000	-0-
219. Construct Research/Incubator Facility			
Other Funds	-0-	15,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
220. Construct/Improve Recreation Quad 2			
Other Funds	-0-	15,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
221. Construct/Relocate Data Center			
Restricted Funds	-0-	40,000,000	-0-
222. Improve Wildcat Coal Lodge			
Other Funds	-0-	4,000,000	-0-
223. Replace UKHC IT Systems 2 (Administrative)			
Restricted Funds	-0-	70,000,000	-0-
224. Replace UKHC IT Systems 1			
Restricted Funds	-0-	280,000,000	-0-

225. Improve IT Systems - UKHC			
Restricted Funds	-0-	130,000,000	-0-
226. Improve Good Samaritan Hospital Facilities			
Restricted Funds	-0-	25,000,000	-0-
227. Improve Parking Structures			
Restricted Funds	-0-	25,000,000	-0-
228. Implement Land Use Plan - UKHC			
Restricted Funds	-0-	20,000,000	-0-
229. Construct Data Center - UKHC			
Restricted Funds	-0-	45,000,000	-0-
230. Construct Ambulatory Facility - UKHC			
Restricted Funds	-0-	50,000,000	-0-
231. Acquire Hospital Facility			
Restricted Funds	-0-	250,000,000	-0-
232. Renovate/Upgrade Hospital Facility			
Restricted Funds	-0-	50,000,000	-0-
233. Improve HealthCare IT Systems 1			
Restricted Funds	-0-	50,000,000	-0-
234. Acquire Medical Facility 1			
Restricted Funds	-0-	50,000,000	-0-
235. Acquire Medical Facility 2			
Restricted Funds	-0-	25,000,000	-0-
236. Renovate/Upgrade Medical Facility 1			
Restricted Funds	-0-	25,000,000	-0-
237. Improve HealthCare IT Systems 2			
Restricted Funds	-0-	30,000,000	-0-
238. University of Kentucky HealthCare Disparities Initiative			
Bond Funds	-0-	20,000,000	20,000,000

9. UNIVERSITY OF LOUISVILLE

001. Public/Private Partnership Residence Hall			
Other Funds	-0-	51,000,000	-0-
(1) Authorization: The above authorization is approved pursuant to KRS 45.763.			
002. Construct Speed School Utility Infrastructure Upgrade			
Restricted Funds	-0-	20,000,000	-0-
003. Renovate Health Sciences Center Instructional and Student Services Space			
Restricted Funds	-0-	20,000,000	-0-
004. Renovate and Expand J.B. Speed Building			
Restricted Funds	-0-	18,700,000	-0-

005. Construct Television Broadcast and Production Studio			
Other Funds	-0-	10,000,000	-0-
006. Improve Housing Facilities Pool			
Restricted Funds	-0-	10,000,000	-0-
007. Renovate Chemistry Fume Hood Redesign - Phase II			
Restricted Funds	-0-	9,750,000	-0-
008. Expand Jim Patterson Stadium			
Other Funds	-0-	9,500,000	-0-
009. Purchase Networking System			
Restricted Funds	-0-	8,000,000	-0-
010. Construct Athletics Office Building			
Other Funds	-0-	7,500,000	-0-
011. Purchase Research Computing Infrastructure			
Restricted Funds	-0-	7,000,000	-0-
012. Replace Papa John's Stadium Seats			
Other Funds	-0-	5,460,000	-0-
013. Construct Belknap Stormwater Improvements			
Restricted Funds	-0-	5,000,000	-0-
014. Regional Biocontainment Laboratory Pressurization Upgrade			
Restricted Funds	-0-	5,000,000	-0-
015. Renovate Vivarium Facilities			
Restricted Funds	-0-	5,000,000	-0-
016. Expand Auto Book Storage and Retrieval System			
Restricted Funds	-0-	4,900,000	-0-
017. Purchase Content Management System			
Restricted Funds	-0-	4,000,000	-0-
018. Renovate Parking Structures			
Restricted Funds	-0-	3,600,000	-0-
019. Purchase Fiber Instructure			
Restricted Funds	-0-	3,500,000	-0-
020. Purchase Security and Firewall Infrastructure			
Restricted Funds	-0-	3,000,000	-0-
021. Replace Parking Services Hardware and Software			
Restricted Funds	-0-	2,600,000	-0-
022. Renovate Flexner Way Mall			
Restricted Funds	-0-	2,500,000	-0-
023. Resurface and Repair Parking Lots			
Restricted Funds	-0-	2,500,000	-0-
024. Renovate Chemistry Teaching Laboratories and Auditorium			

Restricted Funds	-0-	2,200,000	-0-
025. Construct Belknap 3rd Street Improvements			
Restricted Funds	-0-	2,180,000	-0-
026. Purchase Computer Processing System and Storage			
Restricted Funds	-0-	2,000,000	-0-
027. Purchase Identity Management Solution			
Restricted Funds	-0-	2,000,000	-0-
028. Renovate Belknap Physical Plant Building			
Restricted Funds	-0-	2,000,000	-0-
029. Renovate College of Business Classrooms			
Restricted Funds	-0-	2,000,000	-0-
030. Renovate Kosair Charities Pediatric Center			
Restricted Funds	-0-	2,000,000	-0-
031. Replace Electronic Video Boards			
Other Funds	-0-	2,000,000	-0-
032. Construct College of Business Courtyard and Café			
Restricted Funds	-0-	1,800,000	-0-
033. Construct Plant-Based Pharmaceutical Research Facility			
Restricted Funds	-0-	1,700,000	-0-
034. Construct Athletic Grounds Building			
Other Funds	-0-	1,550,000	-0-
035. Renovate Life Sciences Building Vivarium			
Restricted Funds	-0-	1,500,000	-0-
036. Renovate Miller Hall Infrastructure			
Restricted Funds	-0-	1,500,000	-0-
037. Renovate Threlkeld Hall Infrastructure			
Restricted Funds	-0-	1,500,000	-0-
038. New Football Practice Field Lighting			
Other Funds	-0-	1,330,000	-0-
039. Construct Belknap Century Corridor Improvement			
Restricted Funds	-0-	1,250,000	-0-
040. Replace Artificial Turf Field III			
Other Funds	-0-	1,250,000	-0-
041. Replace Artificial Turf Field IV			
Other Funds	-0-	1,250,000	-0-
042. Construct Artificial Turf Field for Intramurals			
Restricted Funds	-0-	1,215,000	-0-
043. Construct Athletic Equipment and Apparel Storage Facility			
Other Funds	-0-	1,200,000	-0-

044. Renovate College of Business Green Roof			
Restricted Funds	-0-	1,150,000	-0-
045. Academic Space 1 - Lease			
046. Academic Space 2 - Lease			
047. Housing 1 - Lease			
048. Housing 2 - Lease			
049. Housing 3 - Lease			
050. Housing 4 - Lease			
051. Jefferson County - Clinic Space 1 - Lease			
052. Jefferson County - Clinic Space 2 - Lease			
053. Jefferson County - Clinic Space 3 - Lease			
054. Clinic Space - State of Kentucky - Lease			
055. Jefferson County - Office Space 1 - Lease			
056. Jefferson County - Office Space 2 - Lease			
057. Jefferson County - Office Space 3 - Lease			
058. Jefferson County - Office Space 4 - Lease			
059. Medical Center One - Lease			
060. Medical Center One - 2 - Lease			
061. Nucleus 1 Building - Lease			
062. Nucleus 1 Building - 2 - Lease			
063. Master of Fine Arts - Lease			
064. University Pointe and Cardinal Towne - Lease			
065. Arthur Street - Lease			
066. Support Space 1 - Lease			
067. Guaranteed Energy Savings Performance Contracts			
068. Upgrade STEM Instruction Buildings			
Restricted Funds	-0-	50,000,000	-0-
069. Renovation and Adaptation Projects for Various Buildings			
Restricted Funds	-0-	50,000,000	-0-
070. Renovate School of Medicine Building 55A			
Restricted Funds	-0-	42,000,000	-0-
071. Construct College of Business Building			
Restricted Funds	-0-	120,000,000	-0-
072. Renovate Natural Science Building			
Restricted Funds	-0-	30,000,000	-0-
073. Construct Institute for Product Realization			
Other Funds	-0-	35,980,000	-0-
074. Renovate Dental School Administrative Space			
Restricted Funds	-0-	1,000,000	-0-

075. Demolish and Replace Miller Resident Hall

Agency Bonds	-0-	70,600,000	-0-
--------------	-----	------------	-----

076. Construct Multidisciplinary Engineering Building #1

Restricted Funds	-0-	65,000,000	-0-
------------------	-----	------------	-----

077. Renovate and Expand Threlkeld Resident Hall

Agency Bonds	-0-	33,275,000	-0-
--------------	-----	------------	-----

078. Renovate Ekstrom Library

Restricted Funds	-0-	57,200,000	-0-
------------------	-----	------------	-----

079. Land Purchase

Restricted Funds	-0-	15,000,000	-0-
------------------	-----	------------	-----

10. WESTERN KENTUCKY UNIVERSITY**001. Renovate or Replace Garrett Conference Center**

Restricted Funds	-0-	3,500,000	-0-
------------------	-----	-----------	-----

Other Funds	-0-	35,000,000	-0-
-------------	-----	------------	-----

TOTAL	-0-	38,500,000	-0-
-------	-----	------------	-----

002. Construct Indoor Athletic Training Facility

Other Funds	-0-	18,000,000	-0-
-------------	-----	------------	-----

003. Capital Renewal Pool - 2018-2020

Restricted Funds	-0-	10,000,000	-0-
------------------	-----	------------	-----

004. Renovate and Expand Clinical Education Complex

Other Funds	-0-	8,000,000	-0-
-------------	-----	-----------	-----

005. Construct Football Pressbox

Other Funds	-0-	5,200,000	-0-
-------------	-----	-----------	-----

006. Renovate Central Heat Plant

Restricted Funds	-0-	5,000,000	-0-
------------------	-----	-----------	-----

007. Renovate South Campus

Restricted Funds	-0-	5,000,000	-0-
------------------	-----	-----------	-----

008. Repair or Replace Roof at Center for Research and Development

Restricted Funds	-0-	5,100,000	-0-
------------------	-----	-----------	-----

009. Upgrade IT Infrastructure

Restricted Funds	-0-	6,000,000	-0-
------------------	-----	-----------	-----

010. Construct Track and Field Facilities Phase I

Other Funds	-0-	4,700,000	-0-
-------------	-----	-----------	-----

011. Construct Baseball Grandstand

Other Funds	-0-	4,500,000	-0-
-------------	-----	-----------	-----

012. Renovate and Improve Softball Complex

Other Funds	-0-	3,500,000	-0-
-------------	-----	-----------	-----

013. Acquire Furnishings and Equipment for Diddle Arena

Other Funds	-0-	3,000,000	-0-
-------------	-----	-----------	-----

014. Acquire Furnishings and Equipment Pool - 2018-2020			
Restricted Funds	-0-	3,000,000	-0-
015. Add Club Seating at Diddle Arena			
Other Funds	-0-	3,000,000	-0-
016. Hilltopper Hall Furnishings and Equipment			
Other Funds	-0-	3,000,000	-0-
017. Renovate/Construct College Heights Foundation Building			
Other Funds	-0-	3,000,000	-0-
018. Construct Science Gallery			
Other Funds	-0-	2,500,000	-0-
019. Construct South Plaza			
Other Funds	-0-	2,500,000	-0-
020. Renovate Free Stall Horse Barns			
Restricted Funds	-0-	1,800,000	-0-
021. Construct Tertiary Data Center			
Restricted Funds	-0-	1,500,000	-0-
022. Remove and Replace Student Housing at Farm			
Other Funds	-0-	1,500,000	-0-
023. Renovate State and Normal Street Properties			
Restricted Funds	-0-	1,500,000	-0-
024. Renovate Tate Page Hall			
Restricted Funds	-0-	1,200,000	-0-
025. Renovate Grise Hall Restrooms, ADA			
Restricted Funds	-0-	1,000,000	-0-
026. Renovate Jones Jagers Interior			
Restricted Funds	-0-	1,000,000	-0-
027. Alumni Center - Lease			
028. Nursing and Physical Therapy - Lease			
029. Parking Garage - Lease			
030. Guaranteed Energy Savings Performance Contracts			
031. Upgrade Underground Infrastructure			
Restricted Funds	-0-	55,000,000	-0-
032. Renovate Helm/Cravens Library			
Restricted Funds	-0-	68,300,000	-0-
033. Improve Life Safety Pool/Academic Facilities			
Restricted Funds	-0-	27,500,000	-0-
11. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM			
001. Construct Technology Drive Campus Expansion - Ashland CTC			
Restricted Funds	-0-	12,500,000	-0-

002. Capital Renewal and Deferred Maintenance Pool - 2018-2020			
Restricted Funds	-0-	5,000,000	5,000,000
003. KCTCS Information Technology Infrastructure Upgrade			
Restricted Funds	-0-	4,750,000	4,750,000
004. Construct Advanced Manufacturing Center - Jefferson CTC, Downtown - Additional			
Restricted Funds	-0-	5,000,000	-0-
005. Construct Advanced Manufacturing Center - Bluegrass CTC, Danville			
Restricted Funds	-0-	5,000,000	-0-
006. KCTCS Equipment Pool - 2018-2020			
Restricted Funds	-0-	5,000,000	-0-
007. Renovate Facilities Maysville Campus			
Restricted Funds	-0-	5,000,000	-0-
008. Renovate Falkenstine - Southeast CTC, Cumberland			
Restricted Funds	-0-	5,000,000	-0-
009. Renovate Learning Resource Center, Ashland CTC			
Restricted Funds	-0-	4,800,000	-0-
010. Renovate Sullivan Technology Center - Henderson CC			
Restricted Funds	-0-	4,600,000	-0-
011. Construct Addition to Building 2 - Somerset CC South			
Restricted Funds	-0-	4,500,000	-0-
012. Renovate Administration Building Newtown Campus - Bluegrass CTC			
Restricted Funds	-0-	4,500,000	-0-
013. Replace HVAC System Phase I - Owensboro CTC			
Restricted Funds	-0-	4,400,000	-0-
014. Acquisition of KCTCS System Office Building			
Restricted Funds	-0-	4,000,000	-0-
015. Renovate Administration Building - Whitesburg - Southeast Kentucky CTC			
Restricted Funds	-0-	3,800,000	-0-
016. Renovate Auditorium Building- Hopkinsville CC			
Restricted Funds	-0-	3,800,000	-0-
017. Renovate Southeastern Campus - Owensboro CTC			
Restricted Funds	-0-	3,700,000	-0-
018. Renovate Dental Hygiene Clinic - Big Sandy CTC - Mayo Campus			
Restricted Funds	-0-	3,000,000	-0-
019. Renovate Technical Campus - Madisonville CC			
Restricted Funds	-0-	3,000,000	-0-
020. Renovations Main Campus - West Kentucky CTC			

Restricted Funds	-0-	2,700,000	-0-
021. Improve Parking Lots - Jefferson CTC			
Restricted Funds	-0-	2,500,000	-0-
022. Renovate Downtown Campus – Owensboro CTC			
Restricted Funds	-0-	2,500,000	-0-
023. Relocate Student Center - Henderson CC			
Restricted Funds	-0-	2,200,000	-0-
024. Replace HVAC Units - Somerset CC South Campus			
Restricted Funds	-0-	2,200,000	-0-
025. Construct National Responder Preparedness Center Parking Lot -Fire Commission			
Restricted Funds	-0-	2,000,000	-0-
026. KCTCS CEMCS Upgrades Pool			
Restricted Funds	-0-	2,000,000	-0-
027. Repair/Replace Roofs - Hazard CTC			
Restricted Funds	-0-	2,000,000	-0-
028. Replace Meece HVAC System - Somerset CC - North Campus			
Restricted Funds	-0-	2,000,000	-0-
029. Stabilize Soil Technical Campus - Hazard CTC			
Restricted Funds	-0-	2,000,000	-0-
030. Upgrade HVAC Systems - Big Sandy CTC - Collegewide			
Restricted Funds	-0-	2,000,000	-0-
031. Replace Roofs - Big Sandy CTC - Collegewide			
Restricted Funds	-0-	1,700,000	-0-
032. Soil Stabilization Godbey - Southeast - Cumberland			
Restricted Funds	-0-	1,500,000	-0-
033. Upgrade Sprinkler Systems - West Kentucky CTC			
Restricted Funds	-0-	1,500,000	-0-
034. Upgrade Welding Shop - Big Sandy CTC - Mayo Campus			
Restricted Funds	-0-	1,500,000	-0-
035. Fire Commission Driver Simulator			
Restricted Funds	-0-	1,000,000	-0-
036. Fire Commission Fire Trucks			
Restricted Funds	-0-	600,000	-0-
037. Jefferson CTC - Bullitt County Campus - Lease			
038. Jefferson CTC - Jefferson County - Lease			
039. Jefferson CTC - Jefferson Education Center - Lease			
040. KCTCS System Office - Lease			
041. Maysville CTC - Rowan Campus - Lease			

042. Maysville CTC - Rowan County - Lease

043. Guaranteed Energy Savings Performance Contracts

044. Improve Facilities - Bluegrass CTC, Winchester-Clark County Campus

Restricted Funds	-0-	8,000,000	-0-
------------------	-----	-----------	-----

K. PUBLIC PROTECTION CABINET

Budget Units	2018-19	2019-20
---------------------	----------------	----------------

1. FINANCIAL INSTITUTIONS

001. Franklin County - Lease

2. HOUSING, BUILDINGS AND CONSTRUCTION

001. Online Jurisdiction Program

Restricted Funds	1,666,000	-0-
------------------	-----------	-----

002. Franklin County - Lease

3. INSURANCE

001. Franklin County - Lease

L. TOURISM, ARTS AND HERITAGE CABINET

Budget Units	2018-19	2019-20
---------------------	----------------	----------------

1. PARKS

001. Maintenance Pool - 2018-2020

Bond Funds	10,000,000	10,000,000
------------	------------	------------

002. Construct Lodge and/or Resort Facilities at Yatesville Lake

(1) **Authorization:** The above authorization is approved pursuant to KRS 45A.077.

003. Construct or Renovate Lodge Facilities at Natural Bridge

(1) **Authorization:** The above authorization is approved pursuant to KRS 45A.077.

004. Franklin County - Lease

2. HORSE PARK COMMISSION

001. Campground Utility Infrastructure

Restricted Funds	1,500,000	-0-
------------------	-----------	-----

002. Maintenance Pool - 2018-2020

Investment Income	600,000	600,000
-------------------	---------	---------

3. STATE FAIR BOARD

001. Maintenance Pool - 2018-2020

Bond Funds	3,000,000	3,000,000
------------	-----------	-----------

002. Kentucky International Convention Center Roof Replacement

Bond Funds	5,000,000	-0-
------------	-----------	-----

003. Construct Agri-Plex at Kentucky Exposition Center

(1) **Authorization:** The above authorization is approved pursuant to KRS 45.763.

004. Construct Gate One Hotel at Kentucky Exposition Center

(1) **Authorization:** The above authorization is approved pursuant to KRS 45.763.

005. Construct Hotel Development at Kentucky Exposition Center

(1) **Authorization:** The above authorization is approved pursuant to KRS 45.763.

4. FISH AND WILDLIFE RESOURCES

001. Fees-in-Lieu-of Stream Mitigation Projects Pool

Restricted Funds	20,000,000	20,000,000
------------------	------------	------------

5. KENTUCKY CENTER FOR THE ARTS

001. Maintenance Pool - 2018-2020

Investment Income	160,000	160,000
-------------------	---------	---------

PART III

GENERAL PROVISIONS

1. Funds Designations: Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Other Expendable Trust Funds). Separate fund records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, other miscellaneous federal receipts received by a budget unit, and the Unemployment Compensation Fund, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. Expenditure of Excess Restricted Funds or Federal Funds Receipts: If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2018-2019 or fiscal year 2019-2020, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by a specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act, for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.730, and 48.800, and with the authorization of the State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support authorized expenditures from the General Fund Surplus Account, known as Necessary Government Expenses. If General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2018-2019 or fiscal year 2019-2020, respectively, then the appropriation increase may be approved. If the review indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director and the Secretary of the Finance and Administration Cabinet may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.730, and 48.800.

Any request made by a budget unit pursuant to KRS 48.630 that relates to Restricted Funds or Federal Funds shall include documentation showing a comparative statement of revised estimated receipts by fund source and the

proposed expenditures by proposed use, with the appropriated sums specified in the Budget of the Commonwealth, and statements which explain the cause, source, and use for any variances which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2018-2020 Branch Budget Request Manual and according to the following schedule in each fiscal year: (a) on or before the beginning of each fiscal year; (b) on or before October 1; (c) on or before January 1; and (d) on or before April 1.

3. Interim Appropriation Increases: No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2. of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

4. Revision of Appropriation Allotments: Allotments within appropriated sums for the activities and purposes contained in the enacted Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

5. Permitted Appropriation Obligations: No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly and legislative and executive records.

6. Lapse of General Fund or Road Fund Appropriations Supplanted by Federal Funds: Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account, respectively, to the extent the Federal Funds otherwise become available.

7. Federally Funded Agencies: A state agency entitled to Federal Funds, which would represent 100 percent of the cost of a program, shall conform to KRS 48.730.

8. Lapse of General Fund or Road Fund Excess Debt Service Appropriations: Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

9. Statutes in Conflict: All statutes and portions of statutes in conflict with any of the provisions of this Act, to the extent of the conflict, are suspended unless otherwise provided by this Act.

10. Construction of Budget Provisions on Statutory Budget Administration Powers and Duties: Nothing in this Act is to be construed as amending or altering Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

11. Interpretation of Appropriations: All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

12. Publication of the Budget of the Commonwealth: The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2018 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the Legislative Budget, Executive Budget, Transportation Cabinet Budget, and Judicial Budget as enacted by the 2018 Regular Session, as well as other Acts which contain appropriation provisions for the 2018-2020 fiscal biennium, and based upon supporting documentation and legislative records as considered by the 2018 Regular Session. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted Executive Budget and Transportation Cabinet Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy

and Management as provided in each Part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and approval by the Interim Joint Committee on Appropriations and Revenue.

13. State Financial Condition: Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

14. Prorating Administrative Costs: The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of the Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

15. Construction of Budget Provisions Regarding Executive Reorganization Orders: Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 2018 Regular Session of the General Assembly.

16. Budget Planning Report: By August 15, 2019, the State Budget Director, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.120, a budget planning report.

17. Tax Expenditure Revenue Loss Estimates: By November 30, 2019, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss resulting from tax expenditures. The Department of Revenue shall provide assistance and furnish data, which is not restricted by KRS 131.190. "Tax expenditure" as used in this section means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

18. Duplicate Appropriations: Any appropriation item and sum in Parts I to X of this Act and in an appropriation provision in any Act of the 2018 Regular Session which constitutes a duplicate appropriation shall be governed by KRS 48.312.

19. Priority of Individual Appropriations: KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

20. Severability of Budget Provisions: Appropriation items and sums in Parts I to X of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

21. Unclaimed Lottery Prize Money: For fiscal year 2018-2019 and fiscal year 2019-2020, all unclaimed lottery prize money under KRS 154A.110(3) shall be credited to the Kentucky Educational Excellence Scholarship Reserve Account to be held as a subsidiary account within the Finance and Administration Cabinet for the purpose of funding the KEES Program as appropriated in this Act. If the Kentucky Higher Education Assistance Authority certifies to the State Budget Director that the appropriations in this Act for the KEES Program under the existing award schedule are insufficient to meet funds required for eligible applicants, then the State Budget Director shall provide the necessary allotment of funds in the balance of the KEES Reserve Account to fund the KEES Program. Actions taken under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue on a timely basis.

22. Workers' Compensation: Notwithstanding KRS 342.340(1) and 803 KAR 25:021, Section 5, the Personnel Cabinet shall be exempt from procuring excess risk insurance in fiscal year 2018-2019 and fiscal year 2019-2020 for the Workers' Compensation Benefits and Reserve Program administered by the Cabinet.

23. Carry Forward and Undesignated General Fund and Road Fund Carry Forward: Notwithstanding KRS 48.700 and 48.705, and other Parts of this Act, the Secretary of the Finance and Administration Cabinet shall determine and certify, within 30 days of the close of fiscal year 2017-2018 and fiscal year 2018-2019, the actual amount of undesignated balance of the General Fund and the Road Fund for the year just ended. The amounts from the undesignated fiscal year 2017-2018 and fiscal year 2018-2019 General Fund and Road

Fund balances that are designated and carried forward for budgeted purposes in the 2018-2020 fiscal biennium shall be determined by the State Budget Director during the close of the respective fiscal year and shall be reported to the Interim Joint Committee on Appropriations and Revenue within 30 days of the close of the fiscal year. Any General Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the General Fund Surplus Expenditure Plan contained in Part VII of this Act unless otherwise provided in this Act. The Road Fund undesignated balance in excess of the amount designated for budgeted purposes under this section shall be made available for the Road Fund Surplus Expenditure Plan contained in Part IX of this Act unless otherwise provided in this Act.

24. Reallocation of Appropriations Among Budget Units: The Executive Branch shall operate within the appropriations authorized in this Act for each budget unit as prescribed by KRS 48.400 to 48.730, subject to the conditions and procedures stated in this section or other Parts of this Act.

The Secretary of a Cabinet, the Commissioner of the Department of Education, and other agency heads may request a reallocation among budget units under his or her administrative authority of up to ten percent of General Fund appropriations contained in Part I, Operating Budget, of this Act for fiscal years 2018-2019 and 2019-2020 for approval by the State Budget Director. A request shall explain the need and use for the transfer authority under this section.

The amount of transfer of General Fund appropriations shall be separately recorded and reported in the system of financial accounts and reports provided in KRS Chapter 45.

The State Budget Director shall report a transfer made under this section, in writing, to the Interim Joint Committee on Appropriations and Revenue at least 30 days prior to the proposed transfer. The Committee shall review the transfer in the same manner and procedure as provided for an interim unbudgeted appropriation action under KRS 48.630.

25. Local School District Expenditure Flexibility: Notwithstanding KRS 160.470(6) or any statute to the contrary, during fiscal year 2018-2019 and fiscal year 2019-2020 local school districts may adopt and the Kentucky Board of Education may approve a working budget that includes a minimum reserve less than two percent of the total budget. The Kentucky Department of Education shall monitor the financial position of any district that receives approval for a working budget with a reserve of less than two percent and shall provide a financial report for those districts at each meeting of the Kentucky Board of Education.

26. Report on Local School District Administrative Expenditures: It is the intent of the General Assembly that, pursuant to its constitutional mandate to provide for an efficient system of common schools, local school districts shall reduce their administrative costs to the extent feasible in order to provide quality instruction for all students in the Commonwealth.

Each local school district shall submit a report to the Legislative Research Commission and the Department of Education no later than December 1 of each fiscal year, which shall include:

(1) All expenses charged to the Instruction (1XXX), Student Support Services (21XX), Instructional Staff Support Services (22XX), District Administrative Support Services (23XX), School Administrative Support Services (24XX), and Business Support Services (25XX) function codes in the "MUNIS Uniform Chart of Accounts" (revised effective July 1, 2017), delineated by the relevant subfunction codes, for the previous fiscal year;

(2) A comparison of the previous fiscal year's expenses, as detailed in subsection (1) of this section, with the same expenses in the preceding fiscal year;

(3) A detailed section explaining steps taken to reduce administrative expenditures while maintaining and expanding instructional expenditures; and

(4) A copy of the district's policy for maintaining a reserve fund balance in compliance with appropriate government and accounting standards.

The Department of Education shall submit a report to the Legislative Research Commission by December 31 of each fiscal year verifying the information submitted by local school districts in subsections (1) and (2) of this section.

27. Faculty Employment: Notwithstanding KRS 164.230 and 164.360, each Board of Regents or Board of Trustees of a state-funded university or the Kentucky Community and Technical College System may reduce the number of faculty, including tenured faculty, when the reduction is a result of the Board discontinuing or modifying an academic program upon determining that program changes are in the university's or college's best interest due to low enrollment, financial feasibility, budgetary constraints, or declaration of financial exigency.

Notwithstanding KRS 164.230 and 164.360, when a faculty reduction occurs pursuant to this section, the board shall provide ten days' notice in writing to the faculty member or members being removed as a result of the reduction stating the Board's reasoning. The provisions of this section supersede any and all policies governing the faculty employment approved by a Board of Regents or Board of Trustees.

28. Employee Layoffs, Furloughs, and Reduced Hours: Notwithstanding any statute to the contrary, the following process and procedure is established for July 1, 2018, through June 30, 2020, in the event that the Commonwealth or any agency determines that it is desirable for the Executive Branch to layoff, furlough, or reduce hours of employees:

(1) For the purposes of this section:

(a) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions;

(b) "Secretary" means the Secretary of the Personnel Cabinet as provided for in KRS 18A.015;

(c) "Furlough" or "reduction in hours" means the temporary reduction of hours an employee is scheduled to work by the appointing authority within a pay period;

(d) "Layoff" means discharge of employment subject to the rights contained in this section; and

(e) "Employees" includes all persons employed by the Executive Branch, including but not limited to employees of KRS Chapter 18A, KRS Chapter 16, KRS Chapter 156, the Kentucky Teachers' Retirement System, the Kentucky Higher Education Student Loan Corporation, the Kentucky Housing Corporation, and the Kentucky Lottery Corporation;

(2) An appointing authority has the authority to layoff or furlough employees or reduce hours of employment for any of the following reasons:

(a) Lack of funds or budgetary constraints;

(b) A reduction in the agency's spending authorization;

(c) Lack of work;

(d) Abolishment of a position; or

(e) Other material change in duties or organization;

(3) The appointing authority shall determine the job classifications affected and the number of employees laid-off in each classification and each county to which a layoff applies. In the same department or office, county, and job classification, interim and probationary employees shall be laid-off before any full-time or part-time employees with status are laid-off. For purposes of layoff, "probationary employee" does not include an employee with status serving a promotional probation;

(4) The Secretary shall approve all actions taken under subsection (2) of this section and no such layoff, furlough, or reduction of hours may begin until such approval has been granted. The appointing authority with the approval of the Secretary has the authority to determine the extent, effective dates, and length of any action taken under subsection (2) of this section;

(5) In determining the employees to be laid-off, the appointing authority shall consider all employees under the same appointing authority, within the job classification affected, and within the county affected. Consideration shall be given to the following relevant factors:

(a) Job performance evaluations;

(b) Seniority;

(c) Education, training, and experience; and

(d) Disciplinary record;

(6) Any employee whose position is subject to layoff, furlough, or reduction of hours shall be provided written notice containing the reason for the action as set forth in subsection (2) of this section at 15 days in advance of the effective date of the action;

(7) Any employee with status who is laid-off shall be eligible to apply as a reemployment applicant for positions with the same job classification from which he or she was laid-off, in the cabinet from which he or she was

laid-off. For a period of two years, a reemployment applicant shall be hired before any applicant except another reemployment applicant with greater seniority who is on the same register. A reemployment applicant shall not be removed from any register except as provided by KRS 18A.032. When a reemployment applicant is removed from a register, he or she shall be notified in writing. A reemployment applicant who accepts any classified position, or who retires through the Kentucky Retirement Systems or Kentucky Teachers' Retirement System, shall cease to have eligibility rights as a reemployment applicant;

(8) With the approval of the Secretary, the Personnel Cabinet may place employees subject to a reduction in force;

(9) Furloughs or reduction of hours during a pay period shall not result in the loss of eligibility for any benefit otherwise due the employee;

(10) The Secretary shall have the authority to promulgate comprehensive administrative regulations governing this section; and

(11) A layoff, furlough, or reduction of hours implemented in accordance with this section shall not be considered a penalization of the employee for the purposes of KRS Chapters 16, 18A, and 156, and shall be appealable to the State Personnel Board, the Kentucky Technical Education Personnel Board, the Department of Kentucky State Police Personnel Board, or other applicable administrative body.

29. Appropriations Expenditure Purpose and Transfer Restrictions: Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this section shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

30. Fiscal Year 2019-2020 Funds Expenditure Restriction: Except in the case of a declared emergency, the Governor, all agency heads, and all other constitutional officers shall not expend or encumber in the aggregate more than 55 percent of the funds appropriated by this Act during the first half of fiscal year 2019-2020.

31. Budget Implementation: The General Assembly directs that the Executive Branch shall carry out all appropriations and budgetary language provisions as contained in the State/Executive Budget. The Legislative Research Commission shall review quarterly expenditure data to determine if an agency is out of compliance with this directive. If the Legislative Research Commission suspects that any entity has acted in non-conformity with this section, the Legislative Research Commission may order an audit or review at the agency's expense. Such audit findings, reviews, and reports shall be subject to the Kentucky Open Records Law.

32. Information Technology: All authorized computer information technology projects shall submit a semiannual progress report to the Capital Projects and Bond Oversight Committee. The reporting process shall begin six months after the project is authorized and shall continue through completion of the project. The initial report shall establish a timeline for completion and cash disbursement schedule. Each subsequent report shall update the timeline and budgetary status of the project and explain in detail any issues with completion date and funding.

33. Equipment Service Contracts and Energy Efficiency Measures: The General Assembly mandates that the Finance and Administration Cabinet review all equipment service contracts to maximize savings to the Commonwealth to strictly adhere to the provisions of KRS 56.722, 56.782, and 56.784 in maximizing the use of energy efficiency measures.

34. Debt Restructuring: Notwithstanding any other provision of the Kentucky Revised Statutes, no General Fund or Road Fund debt restructuring transactions shall be undertaken during the 2018-2020 fiscal biennium.

35. Effects of Subsequent Legislation: If any measure enacted during the 2018 Regular Session of the General Assembly subsequent to this Act contains an appropriation or is projected to increase or decrease General Fund revenues, the amount in the Budget Reserve Trust Fund shall be revised to accommodate the appropriation or the reduction or increase in projected revenues. Notwithstanding any provision of KRS 48.120(4) and (5) to the contrary, the official enacted revenue estimates of the Commonwealth described in KRS 48.120(5) shall be adjusted at the conclusion of the 2018 Regular Session of the General Assembly to incorporate any projected revenue increases or decreases that will occur as a result of actions taken by the General Assembly subsequent to the passage of this Act by both chambers.

36. Permitted Use of Water and Sewer Bond Funds: Notwithstanding Part II, (3) of this Act and any statute to the contrary, any balances remaining for either closed or open project grant agreements authorized pursuant

to bond pools set forth in 2003 Ky. Acts ch. 156, Part II, A., 3., d. Water and Sewer Resources Development Fund for Tobacco Counties and e. Water and Sewer Resources Development Fund For Coal Producing Counties; 2005 Ky. Acts ch. 173, Part II, A., 3., 003. Infrastructure for Economic Development Fund for Coal-Producing Counties and 004. Infrastructure for Economic Development Fund for Tobacco Counties; 2006 Ky. Acts ch. 252, Part II, A., 2., 003. Infrastructure for Economic Development Fund for Non-Coal Producing Counties and 004. Infrastructure for Economic Development Fund for Coal-Producing Counties; 2008 Ky. Acts ch. 123, Section 3., 004. Infrastructure for Economic Development Fund for Coal-Producing Counties and 005. Infrastructure for Economic Development Fund for Non-Coal Producing Counties; and 2008 Ky. Acts ch. 174, Section 2.; and 2009 Ky. Acts ch. 87, Section 2. shall not lapse and shall remain to the credit of projects previously authorized by the General Assembly unless expressly reauthorized and reallocated by action of the General Assembly.

37. Approval of State Aircraft Travel: Notwithstanding KRS 44.060, 45.101, 174.508, and any other statute or administrative regulation to the contrary, the use of state aircraft by any secretary of any Executive Branch cabinet for out-of-state travel shall be approved by the Secretary of the Finance and Administration Cabinet. The Secretary of the Finance and Administration Cabinet shall only approve requests which document that the use of state aircraft is the lowest cost option as measured by both travel costs and travel time. The Secretary of the Finance and Administration Cabinet shall not designate approval authority for out-of-state travel on state aircraft by Executive Branch cabinet secretaries to any other person.

PART IV

STATE SALARY/COMPENSATION, BENEFIT, AND EMPLOYMENT POLICY

1. Authorized Personnel Complement: On July 1, 2018, and July 1, 2019, the Personnel Cabinet and the Office of State Budget Director shall establish a record for each budget unit of authorized permanent full-time and other positions based upon the enacted Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled permanent full-time and all other positions shall not exceed the authorized complements pursuant to this section. An agency head may request an increase in the number of authorized positions to the State Budget Director. Upon approval, the Secretary of the Personnel Cabinet may authorize the employment of individuals in addition to the authorized complement. A report of the actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

2. Salary Adjustments: Notwithstanding KRS 18A.355 and 156.808(6)(e) and (12), no increment is provided in either fiscal year on the base salary or wages of each eligible state employee on their anniversary date.

3. Employee Cross-Reference: The Personnel Cabinet may permit married couples who are both eligible to participate in the state health insurance plan to be covered under one family health benefit plan.

4. Full-Time Positions: Notwithstanding KRS 18A.005(18)(a), full-time positions in the state parks, where the work assigned is dependent upon fluctuation in tourism, may be assigned work hours from 25 hours per week and remain in full-time positions.

5. Employer Retirement Contribution Rates: Pursuant to KRS 61.565 and 61.702, the employer contribution rates for Kentucky Employees Retirement Systems from July 1, 2018, through June 30, 2020, shall be 83.43 percent, consisting of 71.03 percent for pension and 12.40 percent for health insurance for nonhazardous duty employees and 36.85 percent, consisting of 34.39 percent for pension and 2.46 percent for health insurance for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be 146.28 percent, consisting of 119.05 percent for pension and 27.23 percent for health insurance. The rates above apply to wages and salaries earned for work performed during the described period regardless of when the employee is paid for the time worked.

6. Issuance of Paychecks to State Employees: Notwithstanding 101 KAR 2:095, Section 10, the state payroll that would normally be scheduled to be paid on June 30, 2019, and June 30, 2020, shall not be issued prior to July 1, 2019, and July 1, 2020.

7. Health Care Spending Account: Notwithstanding KRS 18A.2254(2)(a) and (b), if a public employee waives coverage provided by his or her employer under the Public Employee Health Insurance Program, the employer shall forward a monthly amount to be determined by the Secretary of the Personnel Cabinet for that employee as an employer contribution to a health reimbursement account or a health flexible spending account, but not less than \$175 per month, subject to any conditions or limitations imposed by the Secretary of the Personnel Cabinet to comply with applicable federal law. The administrative fees associated with a health reimbursement account or health flexible spending account shall be an authorized expense to be charged to the Public Employee Health Insurance Trust Fund.

8. State Group Health Insurance Plan – Plan Year Closure: Notwithstanding KRS 18A.2254, Plan Years 2010, 2011, 2012, 2013, 2014, and 2015 shall be considered closed as of June 30, 2018, and all balances from those Plan Years shall be transferred to Plan Year 2016. All other income and expenses attributable to the closed Plan Years shall be deposited in or charged to the Plan Year 2016 account after that date.

9. State Group Health Insurance Plan – Transfer Between Plan Years: Notwithstanding KRS 18A.2254, the Secretary of the Finance and Administration Cabinet and the Secretary of the Personnel Cabinet are authorized to use the excess funds from Plan Year 2016, Plan Year 2017, and Plan Year 2018 or any combination thereof to satisfy claims or expenses in Plan Year 2019 and Plan Year 2020.

10. Turnover Savings Reporting: The Secretary of the Personnel Cabinet shall submit a monthly report to the Interim Joint Committee on Appropriations and Revenue listing, for each appropriation unit, the number of Personnel Target or Current Authorized Personnel (CAP), the amount allocated for budgeted positions, the fund source, and the amount of savings resulting from vacant positions. The Personnel Target or CAP reporting shall include any modifications since enactment of the biennial budget. Reporting shall begin on August 15, 2018, with each report reflecting activity of the previous month and being due the following 15th.

PART V

FUNDS TRANSFER

The General Assembly finds that the financial condition of state government requires the following action.

Notwithstanding the statutes or requirements of the Restricted Funds enumerated below, there is transferred to the General Fund the following amounts in fiscal year 2018-2019 and fiscal year 2019-2020:

	2017-18	2018-19	2019-20
A. GENERAL GOVERNMENT			
1. Secretary of State			
Agency Revenue Fund	-0-	1,500,000	1,500,000
2. School Facilities Construction Commission			
Agency Revenue Fund	-0-	26,000,000	-0-
(KRS 157.618)			
B. ENERGY AND ENVIRONMENT CABINET			
1. Secretary			
Kentucky Pride Trust Fund	-0-	2,006,300	2,006,300
(KRS 224.43-505(2)(a)3.)			
Notwithstanding KRS 224.43-505(2)(a)3., these funds transfers to the General Fund support the General Fund debt service on the bonds sold as appropriated by 2003 Ky. Acts ch. 156, Part II, A., 3., c..			
2. Environmental Protection			
Insurance Administration Fund	-0-	11,500,000	11,500,000
(KRS 224.60-130, 224.60-140, 224.60-145, and 224.60-150)			
3. Environmental Protection			
Waste Tire Trust Fund	-0-	3,000,000	3,000,000
(KRS 224.50-880)			
4. Kentucky Nature Preserves Commission			
Kentucky Heritage Land			
Conservation Fund	-0-	2,500,000	2,500,000
(KRS 146.570)			

C. FINANCE AND ADMINISTRATION CABINET

1. General Administration

Other Expendable Trust Fund	-0-	75,000,000	75,000,000
(KRS 42.205)			

These funds transfers to the General Fund partially support employer retirement contributions.

2. Commonwealth Office of Technology

Computer Services Fund	2,800,000	2,800,000	2,800,000
(KRS 45.253)			

D. HEALTH AND FAMILY SERVICES CABINET

1. General Administration and Program Support

Malt Beverage Education Fund	-0-	500,000	500,000
------------------------------	-----	---------	---------

E. PERSONNEL CABINET

1. General Operations

Agency Revenue Fund	-0-	2,689,000	2,693,800
---------------------	-----	-----------	-----------

These funds transfers to the General Fund support General Fund debt service on bonds for the new Personnel/Payroll system.

2. General Operations

Enterprise Fund	-0-	135,140,500	175,364,400
(KRS 18A.2254(3))			

These funds transfers to the General Fund partially support employer retirement contributions.

F. POSTSECONDARY EDUCATION

1. Kentucky Community and Technical College System

Other Special Revenue Fund	-0-	2,000,000	2,000,000
(KRS 95A.262(14))			

G. PUBLIC PROTECTION CABINET

1. Financial Institutions

Agency Revenue Fund	-0-	3,000,000	3,000,000
(KRS 286.1-485)			

2. Insurance

Agency Revenue Fund	-0-	20,000,000	20,000,000
(KRS 304.2-300 and 304.2-400)			

H. TOURISM, ARTS AND HERITAGE CABINET

1. Secretary

Other Special Revenue Fund	-0-	1,000,000	-0-
----------------------------	-----	-----------	-----

TOTAL - FUNDS TRANSFER	2,800,000	288,635,800	301,864,500
------------------------	-----------	-------------	-------------

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected revenue shortfall in General Fund revenue receipts, excluding Tobacco Settlement – Phase I receipts, of \$11,005,900,000 in fiscal year 2018-2019 and \$11,290,000,000 in fiscal year 2019-2020, as determined by KRS 48.120 and modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Notwithstanding KRS 48.130, direct services, obligations essential to the minimum level of

constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address the proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected revenue shortfall.

The Governor, Constitutional Officers, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary, as well as take other measures which shall be consistent with the provisions of this Part and biennial branch budget bills.

Notwithstanding KRS 48.130(4)(a) and (b), in the event of a revenue shortfall of five percent or less, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act;

(2) Transfers of excess unappropriated Restricted Funds, notwithstanding any statutes to the contrary, other than fiduciary funds, to the General Fund shall be applied as determined by the head of each branch for its respective budget units. No transfers to the General Fund shall be made from the following:

(a) Local Government Economic Assistance and Local Government Economic Development Funds;

(b) Unexpended debt service from the Tobacco-Settlement Phase I Funds, including but not limited to unexpended debt service and the Tobacco Unbudgeted Interest Income-Rural Development Trust Fund, in either fiscal year;

(c) Multi-County Coal Severance Fund; and

(d) The Kentucky Permanent Pension Fund;

(3) Unexpended debt service;

(4) Any unanticipated Phase I Master Settlement Agreement revenues in both fiscal years shall be appropriated according to Part X of this Act and shall not be transferred to the General Fund;

(5) Use of the unappropriated balance of the General Fund surplus shall be applied;

(6) Any language provision that expresses legislative intent regarding a specific appropriation shall not be reduced by a greater percentage than the reduction to the General Fund appropriation for that budget unit;

(7) Reduce General Fund appropriations in Executive Branch agencies' operating budget units by a sufficient amount to balance either fiscal year. No reductions of General Fund appropriations shall be made from the Local Government Economic Assistance Fund or the Local Government Economic Development Fund;

(8) Notwithstanding subsection (7) of this Part, no reductions shall be made to the Constitutional Officers or their offices, Commonwealth's Attorneys or their offices, or County Attorneys or their offices. The Governor may request their participation in a budget reduction; however, the level of participation shall be at the discretion of the Constitutional Officer or the Prosecutors Advisory Council, and shall not exceed the actual percentage of revenue shortfall;

(9) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth;

(10) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the Trust Fund balance in fiscal year 2018-2019 and 50 percent in fiscal year 2019-2020; and

(11) Pursuant to KRS 48.130 and 48.600, if the actions contained in subsections (1) to (10) of this Part are insufficient to eliminate an actual or projected General Fund revenue shortfall, then the Governor is empowered and

directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in this Part.

PART VII

GENERAL FUND SURPLUS EXPENDITURE PLAN

(1) Notwithstanding KRS 48.130(7), 48.140(3), 48.700, and 48.705, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Expenditure Plan contained in this Part for fiscal years 2018-2019 and 2019-2020. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys made available for the General Fund Surplus Expenditure Plan pursuant to Part III, General Provisions, Section 23, of this Act are appropriated to the following:

(a) Authorized expenditures without a sum-specific appropriation amount, known as Necessary Government Expenses, including but not limited to Emergency Orders formally declared by the Governor in an Executive Order;

(b) For the surplus moneys from fiscal year 2017-2018, to the Kentucky Retirement Systems to be applied to the unfunded pension liability of the Kentucky Employees Retirement System nonhazardous pension fund; and

(c) For the surplus moneys from fiscal year 2018-2019:

1. The Teachers' Retirement System in an amount up to \$70,000,000 to be applied to the Medical Insurance Fund; and

2. The remaining amount to the Kentucky Retirement Systems to be applied to the unfunded pension liability of the Kentucky Employees Retirement System nonhazardous pension fund.

(2) The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of fiscal year 2017-2018, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan in fiscal year 2018-2019. The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

(3) The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of fiscal year 2018-2019, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan in fiscal year 2019-2020. The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

PART VIII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2018-2019 and fiscal year 2019-2020. Notwithstanding KRS 48.130(1) and (3) relating to statutory appropriation adjustments related to the revenue sharing of motor fuels taxes, in the event of an actual or projected revenue shortfall in Road Fund revenue receipts of \$1,505,300,000 in fiscal year 2018-2019 and \$1,508,500,000 in fiscal year 2019-2020 as determined by KRS 48.120 and modified by related Acts and actions of the General Assembly in an extraordinary or regular session, the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service.

PART IX

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.110, 48.140, and 48.710, there is established a plan for the expenditure of the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be appropriated to the State Construction Account within the Highways budget unit and utilized to support projects in the 2018-2020 Biennial Highway Construction Program.

PART X

PHASE I TOBACCO SETTLEMENT

(1) **General Purpose:** This Part prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In

furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

(2) **State's MSA Share:** The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA are made to the states annually in April of each year.

(3) **MSA Payment Amount Variables:** The total settlement amount to be distributed on each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

(4) **Distinct Identity of MSA Payment Deposits:** The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

(5) **MSA Payment Estimates and Adjustments:** Based on the official estimates of the Consensus Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2017-2018 is \$114,600,000, in fiscal year 2018-2019 is \$119,500,000, and in fiscal year 2019-2020 is \$118,100,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. If MSA payments received are less than the official estimates, appropriation reductions shall be applied as follows: after exempting appropriations for debt service and the Department of Revenue, 50 percent to the Agricultural Development Fund, 30 percent to the Early Childhood Development Fund, and 20 percent to the Health Care Improvement Fund. If MSA payments received exceed the official estimates, appropriation increases shall be applied as follows: after exempting appropriations for debt service and the Department of Revenue, 50 percent to the Agricultural Development Fund, 30 percent to the Early Childhood Development Fund, and 20 percent to the Health Care Improvement Fund.

a. **State Enforcement:** Notwithstanding KRS 248.654 and 248.703(4), a total of \$250,000 of the MSA payments received in each fiscal year of the 2018-2020 biennium is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's enforcement of noncompliant nonparticipating manufacturers.

b. **Debt Service:** Notwithstanding KRS 248.654 and 248.703(4), \$28,974,900 in MSA payments in fiscal year 2018-2019 and \$31,878,700 in MSA payments in fiscal year 2019-2020 are appropriated to the Finance and Administration Cabinet, Debt Service budget unit.

c. **Agricultural Development Initiatives:** Notwithstanding KRS 248.654 and 248.703(4), \$44,810,600 in MSA payments in fiscal year 2018-2019 and \$42,636,600 in MSA payments in fiscal year 2019-2020 are appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives as specified in this Part.

d. **Early Childhood Development Initiatives:** Notwithstanding KRS 248.654, \$28,891,900 in MSA payments in fiscal year 2018-2019 and \$27,930,800 in MSA payments in fiscal year 2019-2020 are appropriated to the Early Childhood Development Initiatives as specified in this Part.

e. **Health Care Initiatives:** Notwithstanding KRS 164.476, 248.654, and 304.17B-003(5), MSA payments in the amounts of \$18,604,000 in fiscal year 2018-2019 and \$17,391,400 in fiscal year 2019-2020 are appropriated to the Health Care Improvement Fund for health care initiatives as specified in this Part.

(6) **MSA Lapse – Fiscal Year 2017-2018:** The Consensus Forecasting Group increased the fiscal year 2017-2018 Phase I Master Settlement Agreement revenues by \$21,800,000 to \$114,600,000. There is \$2,025,600 in actual receipts from fiscal year 2015-2016 and \$6,415,600 in actual receipts from fiscal year 2016-2017 that remain unappropriated. Notwithstanding KRS 248.703(6), the total of \$8,441,200 representing unanticipated MSA receipts in fiscal year 2015-2016 and fiscal year 2016-2017 shall lapse to the General Fund. If MSA receipts in fiscal year 2017-2018 are greater than \$92,800,000, but less than \$114,600,000, notwithstanding KRS 248.703(6), the amount above \$92,800,000 shall lapse to the General Fund. If MSA receipts in fiscal year 2017-2018 are greater than \$114,600,000, notwithstanding KRS 248.703(6), a total of \$21,800,000 shall lapse to the General Fund and the amount of fiscal year 2017-2018 MSA receipts above \$114,600,000 shall not lapse to the General Fund but shall be appropriated in accordance with Part X, (5) of this Act.

(7) **MSA Adjustments:** In the event of an actual or projected revenue shortfall in the General Fund revenue receipts, excluding Phase I MSA revenues, in fiscal years 2017-2018, 2018-2019, and 2019-2020, in accordance with this Part and Part VI, General Fund Budget Reduction Plan, of this Act, no transfers shall be made to the General Fund from unexpended debt service from Phase I MSA revenues or from unanticipated Phase I MSA

revenues. Unexpended debt service in fiscal years 2017-2018, 2018-2019, and 2019-2020, shall be appropriated in accordance with Part X, B., 1., a., (3) of this Act. Unanticipated Phase I MSA revenues in fiscal years 2018-2019 and 2019-2020 shall be appropriated in accordance with Part X, (5) of this Act.

A. STATE ENFORCEMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 248.654 and 248.703(4), appropriations for state enforcement shall be as follows:

1. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2018-19	2019-20
a. Revenue	250,000	250,000

B. DEBT SERVICE

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 248.654 and 248.703(4), appropriations for debt service shall be as follows:

1. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2018-19	2019-20
a. Debt Service	28,974,900	31,878,700

(1) **Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco-supported funding program accounts to other accounts of the General Fund.

(2) **General Fund (Tobacco) Debt Service Lapse:** Notwithstanding Part X, (4) of this Act, \$2,065,000 in fiscal year 2017-2018, \$2,031,400 in fiscal year 2018-2019, and \$1,987,500 in fiscal year 2019-2020 shall lapse to the General Fund.

(3) **Appropriation of Unexpended Tobacco Debt Service:** Any unexpended balance from fiscal year 2017-2018, fiscal year 2018-2019, or fiscal year 2019-2020 General Fund (Tobacco) debt service appropriation in the Finance and Administration Cabinet, Debt Service budget unit, shall continue and be appropriated to the Governor's Office of Agricultural Policy.

C. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 248.654 and 248.703(4), appropriations for Agricultural Development shall be as follows:

1. GENERAL GOVERNMENT

Budget Unit	2018-19	2019-20
a. Governor's Office of Agricultural Policy	40,553,300	38,379,300

(1) **Tobacco Settlement Funds - Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of \$20,000 annually may provide up to four percent of the individual county allocation, not to exceed \$15,000 annually, to the county council in that county for administrative costs.

(2) **Counties Account:** Notwithstanding KRS 248.703(1), included in the above General Fund (Tobacco) appropriation is \$16,869,000 in fiscal year 2018-2019 and \$15,841,300 in fiscal year 2019-2020 for the counties account as specified in KRS 248.703(1)(a).

(3) **Directive for Fiscal Year 2018-2019 and Fiscal Year 2019-2020 General Fund (Tobacco) Appropriations:** Notwithstanding KRS 248.709 and 248.727, included in the above General Fund (Tobacco) appropriation is \$7,000,000 in fiscal year 2018-2019 and \$6,000,000 in fiscal year 2019-2020 to be used for capital improvements to the agricultural event space and other facilities at the Kentucky State Fair and Exposition Center.

The grant process for the proposed projects shall require the State Fair Board to submit an application to the Agricultural Development Board. The application shall be subject to the review, approval, and evaluation criteria established by the Agricultural Development Board. Any grants approved by the Agricultural Development Board to the State Fair Board shall not require a match by the applicant. The highest priority and the purpose of grants approved shall be for projects related to deferred maintenance, renovation, and remodeling of event space primarily used for animal and other agricultural-related events or the demolition of unusable facilities. New construction projects dedicated primarily to agricultural events at the Kentucky State Fair and Exposition Center may be considered by the Agricultural Development Board if there are unused appropriations remaining after grant funds have been approved for maintenance, renovation, remodeling, and demolition projects, which shall have the highest priority among the projects considered. If the total grant funds awarded to the State Fair Board are less than the General Fund (Tobacco) appropriation of \$13,000,000 reserved in the 2018-2020 fiscal biennium for the State Fair Board, any uncommitted or unobligated appropriations shall not be approved by the Agricultural Development Board for any other project until appropriated by the General Assembly.

2. DEPARTMENT OF AGRICULTURE

Budget Unit	2018-19	2019-20
a. Agriculture	500,000	500,000

(1) **Farms to Food Banks:** Included in the above General Fund (Tobacco) appropriation is \$500,000 in each fiscal year to support the Farms to Food Banks Program to benefit both Kentucky farmers and the needy by providing fresh, locally grown produce to food pantries.

3. ENERGY AND ENVIRONMENT CABINET

Budget Unit	2018-19	2019-20
a. Natural Resources	3,757,300	3,757,300

(1) **Environmental Stewardship Program:** Included in the above General Fund (Tobacco) appropriation is \$2,500,000 in each fiscal year for the Environmental Stewardship Program.

(2) **Conservation District Local Aid:** Included in the above General Fund (Tobacco) appropriation is \$907,300 in each fiscal year for the Division of Conservation to provide direct local aid to local conservation districts.

(3) **Match for Conservation Program:** Included in the above General Fund (Tobacco) appropriation is \$350,000 in each fiscal year to provide the nonfederal match for a federal conservation program.

TOTAL - AGRICULTURAL APPROPRIATIONS	44,810,600	42,636,600
-------------------------------------	------------	------------

D. EARLY CHILDHOOD DEVELOPMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 248.654, appropriations for Early Childhood Development shall be as follows:

1. GENERAL GOVERNMENT

Budget Unit	2018-19	2019-20
a. Office of the Governor	2,050,000	2,050,000

(1) **Governor's Office for Early Childhood Development:** Included in the above General Fund (Tobacco) appropriation is \$2,050,000 in each fiscal year for the Early Childhood Advisory Council.

2. CABINET FOR HEALTH AND FAMILY SERVICES

Budget Units	2018-19	2019-20
a. Community Based Services	13,211,100	12,250,000

(1) **Early Childhood Development Program:** Included in the above General Fund (Tobacco) appropriation is \$10,711,100 in fiscal year 2018-2019 and \$9,750,000 in fiscal year 2019-2020 for the Early Childhood Development Program.

(2) **Early Childhood Adoption and Foster Care Supports:** Included in the above General Fund (Tobacco) appropriation is \$2,500,000 in each fiscal year for the Early Childhood Adoption and Foster Care Supports Program.

b. Public Health	12,130,000	12,130,000
------------------	------------	------------

(1) **HANDS Program, Healthy Start, Folic Acid Program, Early Childhood Mental Health, and Early Childhood Oral Health:** Included in the above General Fund (Tobacco) appropriation is \$9,000,000 in each fiscal year for the Health Access Nurturing Development Services (HANDS) Program, \$1,000,000 in each fiscal year for Healthy Start initiatives, \$80,000 in each fiscal year for the Folic Acid Program, \$1,000,000 in each fiscal year for Early Childhood Mental Health, and \$1,050,000 in each fiscal year for Early Childhood Oral Health.

c. Behavioral Health, Developmental and Intellectual Disabilities		
Services	1,500,800	1,500,800

(1) **Substance Abuse Prevention and Treatment:** Included in the above General Fund (Tobacco) appropriation is \$1,500,800 in each fiscal year for substance abuse prevention and treatment for pregnant women with a history of substance abuse problems.

TOTAL - EARLY CHILDHOOD	28,891,900	27,930,800
-------------------------	------------	------------

APPROPRIATIONS

E. HEALTH CARE IMPROVEMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 164.476, 248.654, and 304.17B-003(5), appropriations for health care improvement shall be as follows:

1. CABINET FOR HEALTH AND FAMILY SERVICES

Budget Unit	2018-19	2019-20
a. Public Health	3,773,000	3,342,100

(1) **Smoking Cessation Program:** Included in the above General Fund (Tobacco) appropriation is \$3,773,000 in fiscal year 2018-2019 and \$3,342,100 in fiscal year 2019-2020 for Smoking Cessation.

2. JUSTICE AND PUBLIC SAFETY CABINET

Budget Unit	2018-19	2019-20
a. Justice Administration	7,831,000	7,362,800

(1) **Office of Drug Control Policy:** Included in the above General Fund (Tobacco) appropriation is \$7,831,000 in fiscal year 2018-2019 and \$7,362,800 in fiscal year 2019-2020 for the Office of Drug Control Policy to support opioid prevention, treatment, and recovery initiatives.

3. POSTSECONDARY EDUCATION

Budget Unit	2018-19	2019-20
a. Council on Postsecondary	7,000,000	6,686,500

Education

(1) **Cancer Research and Screening:** Included in the above General Fund (Tobacco) appropriation is \$7,000,000 in fiscal year 2018-2019 and \$6,686,500 in fiscal year 2019-2020 for cancer research and screening. The appropriation each fiscal year shall be equally shared between the University of Kentucky and the University of Louisville.

TOTAL - HEALTH CARE	18,604,000	17,391,400
---------------------	------------	------------

TOTAL - PHASE I TOBACCO SETTLEMENT

FUNDING PROGRAM	121,531,400	120,087,500
-----------------	-------------	-------------

PART XI

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	2017-18	2018-19	2019-20
General Fund (Tobacco)	-0-	121,531,400	120,087,500
General Fund	26,771,800	11,097,295,200	11,327,342,700
Restricted Funds	-0-	8,463,848,900	8,745,114,900
Federal Funds	-0-	12,764,790,800	13,138,845,700
Road Fund	-0-	110,543,900	112,085,400
SUBTOTAL	26,771,800	32,558,010,200	33,443,476,200

CAPITAL PROJECTS BUDGET

	2017-18	2018-19	2019-20
Restricted Funds	10,500,000	5,485,467,500	83,834,500
Federal Funds	-0-	69,826,000	29,946,000
Bond Funds	-0-	275,803,000	94,014,000
Agency Bonds	-0-	602,885,000	-0-
Investment Income	-0-	7,035,000	5,485,000
Other Funds	6,000,000	1,440,691,000	3,400,000
SUBTOTAL	16,500,000	7,881,707,500	216,679,500

TOTAL - STATE/EXECUTIVE BUDGET

	2017-18	2018-19	2019-20
General Fund (Tobacco)	-0-	121,531,400	120,087,500
General Fund	26,771,800	11,097,295,200	11,327,342,700
Restricted Funds	10,500,000	13,949,316,400	8,828,949,400
Federal Funds	-0-	12,834,616,800	13,168,791,700
Road Fund	-0-	110,543,900	112,085,400
Bond Funds	-0-	275,803,000	94,014,000
Agency Bonds	-0-	602,885,000	-0-
Investment Income	-0-	7,035,000	5,485,000
Other Funds	6,000,000	1,440,691,000	3,400,000
TOTAL FUNDS	43,271,800	40,439,717,700	33,660,155,700

Vetoed April 9, 2018. Veto overridden April 13, 2018. Became law April 14, 2018.

CHAPTER 170**(HB 362)**

AN ACT relating to retirement and declaring an emergency.

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

➔Section 1. KRS 61.522 is amended to read as follows:

Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the contrary:

- (1) For purposes of this section:
 - (a) "Active member" means a member who is participating in the system;
 - (b) "Employer" means the governing body of a department, as defined by KRS 61.510, or a county as defined by KRS 78.510;
 - (c) "Employer's effective cessation date" means:
 1. The last day of the system's plan year in the year in which the employer has elected to cease participation in the system, provided the employer has met the requirements of this section and has given the Kentucky Retirement Systems sufficient notice as provided by administrative regulations promulgated by the systems; *or*
 2. ***For employers making an election to cease participating under the provisions of subsection (8) of this section, it shall be June 30, 2019; and***
 - (d) "Inactive member" means a member who is not participating with the system;
- (2) Any employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System on July 1, 2015, except as limited by subsection (6) of this section, may:
 - (a) Voluntarily cease participation in its respective retirement system subject to the requirements and restrictions of this section; or
 - (b) Be required to involuntarily cease participation in the system under the provisions of this section if the board has determined the employer is no longer qualified to participate in a governmental plan or has failed to comply with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852;
- (3) (a) If an employer desires to voluntarily cease participation in the Kentucky Employees Retirement System or the County Employees Retirement System as provided by subsection (2)(a) of this section:
 1. The employer shall adopt a resolution requesting to cease participation in the system and shall submit the resolution to the board for its approval;
 2. ***Except as otherwise provided by this section,*** the cessation of participation in the system shall apply to all employees of the employer;
 3. The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section;
 4. The employer shall provide an alternative retirement program for employees who will no longer be covered by the system, which may include a voluntary defined contribution plan ***but, for effective cessation dates occurring on or after June 30, 2019, shall not include a defined benefit plan which by nature can have an unfunded liability;***
 5. If the alternative retirement program established by the employer meets the qualification requirements under 26 U.S.C. sec. 401(a) and is capable of accepting trustee-to-trustee transfers of both pre-tax and post-tax contributions, employees of the employer ceasing participation may seek to transfer his or her account balance to the employer's qualified alternate retirement program within sixty (60) days of the employer's effective cessation date. An employee's election to transfer his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits in the system for the time worked for the employer ceasing participation; and
 6. ***Except as provided by subsection (8) of this section,*** the employer shall pay by lump sum to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 3. of this paragraph. The full actuarial cost shall not include any employee who seeks a transfer of his or her account balance within sixty (60) days of the employer's effective cessation date as provided by subparagraph 5. of this paragraph. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid.

- (b) If the board determines an employer must involuntarily cease participation in the system as provided by subsection (2)(b) of this section:

1. The cessation of participation in the system shall apply to all employees of the employer;
2. The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section; and
3. The employer shall pay by lump sum to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 2. of this paragraph. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid. ~~+~~

An employer who is required to involuntarily cease participating in the systems shall not establish or contribute to on behalf of its employees a defined benefit plan which by nature can have an unfunded liability;

- (4) Any employee hired on or after the employer's effective cessation date by an employer who has ceased participation in the system as provided by this section shall not, regardless of his or her membership date in the systems administered by Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees Retirement System or the County Employees Retirement System through the employer that ceased participation for the duration of his or her employment with that employer;

- (5) If an employer has ceased participation in the system as provided by this section:

- (a) The rights of recipients and the vested rights of inactive members accrued as of the employer's effective cessation date shall not be impaired or reduced in any manner as a result of the employer ceasing participation in the system; and

- (b) Employees of the employer ceasing participation shall accrue benefits through the employer's effective cessation date but shall not accrue any additional benefits in the Kentucky Employees Retirement System or the County Employees Retirement System, including earning years of service credit through the ceased employer, after the employer's effective cessation date for as long as they remain employed by the employer. The day after the employer's effective cessation date, each employee described by this paragraph shall be considered an inactive member with respect to his or her employment with the employer that ceased participation and, subject to the provisions and limitations of KRS 61.510 to 61.705 and 78.510 to 78.852, shall:

1. Retain his or her accounts with the Kentucky Employees Retirement System or the County Employees Retirement System and have those accounts credited with interest in accordance with KRS 61.510 to 61.705 and 78.510 to 78.852;
2. Retain his or her vested rights in accordance with paragraph (a) of this subsection; and
3. Be eligible to take a refund of his or her accumulated account balance in accordance with KRS 61.625 or any other available distribution if eligible;

- (6) (a) Kentucky Employees Retirement System employers who are county attorney offices, Commonwealth's attorney offices, ~~{local and district health departments governed by KRS Chapter 212, }~~master commissioners, executive branch agencies whose employees are subject to KRS 18A.005 to 18A.200, state-administered retirement systems, ~~{state-supported universities and community colleges, }~~property valuation administration offices, or employers in the legislative or judicial branch of Kentucky state government, shall not be eligible to voluntarily discontinue participation in the Kentucky Employees Retirement System unless the employer is a nonstock nonprofit corporation organized under KRS Chapter 273. ***An employer who has both employees subject and not subject to KRS 18A.005 to 18A.200, shall, notwithstanding any other provision of law to the contrary, be eligible to cease participating in the Kentucky Employees Retirement System for all employees not subject to KRS 18A.005 to 18A.200 or for all employees subject and not subject to KRS 18A.005 to 18A.200, provided more than fifty percent (50%) of the employer's employees reported to the system are not subject to KRS 18A.005 to 18A.200.***

- (b) Only the employers in the County Employees Retirement System who are a nonstock nonprofit corporation organized under KRS Chapter 273 may voluntarily cease participation in the County Employees Retirement System;
- (7) For purposes of this section, the full actuarial cost shall be determined by the Kentucky Retirement Systems' consulting actuary separately for the pension fund and the insurance fund using the assumptions and methodology established by the system specifically for determining the full actuarial cost of ceasing participation as of the employer's effective cessation date. For purposes of determining the full actuarial cost, the assumed rate of return used to calculate the cost shall be the lesser of the assumed rate of return utilized in the system's most recent actuarial valuation or the yield on a thirty (30) year United States treasury bond as of the employer's effective cessation date, but shall in no case be lower than the assumed rate of return utilized in the system's most recent actuarial valuation minus three and one-half percent (3.5%);
- (8) *Notwithstanding the provisions of this section, an employer who is eligible to voluntarily cease participating as provided by subsection (6) of this section, and who contributed to the systems in fiscal year 2017-2018 may, prior to January 1, 2019, elect to voluntarily cease participating in the systems. If an employer makes an election as provided by this subsection:*
- (a) *The employer's effective cessation date shall be June 30, 2019. Employees shall continue to contribute and earn service credit in the systems through June 30, 2019. On or after July 1, 2019, the employee shall participate in the alternative retirement plan established by the employer as provided by subsection (3)(a)4. of this section;*
 - (b) *For fiscal years 2018-2019 and 2019-2020, and only for the period of time occurring on or after the first day of the month following the date the employer makes an election as provided by this subsection, the employer ceasing participating shall pay the same dollar amount of contribution as the employer contributed in fiscal year 2017-2018;*
 - (c) *The cost of ceasing participating to an individual employer shall be equal to the cost determined under subsection (7) of this section, except as otherwise adjusted by this section; and*
 - (d) *The cost of ceasing participation as provided by this subsection shall be financed over a thirty (30) year period by the system beginning July 1, 2019, with no interest payable by the employer ceasing participation and with an annual payment not exceeding the dollar amount of contributions payable under paragraph (b) of this subsection for payments on or after July 1, 2020, unless the employer's costs for ceasing participation cannot be financed over the thirty (30) year period starting July 1, 2019, using this method, then:*
 - 1. *The dollar amount of the contribution paid each fiscal year on or after July 1, 2020, may be increased by up to five percent (5%) per year over the prior fiscal year in order to finance the cost interest free over the thirty (30) year period; and*
 - 2. *In the event that the total cost cannot be financed interest free over the thirty (30) year period by the increase in payments as provided by subparagraph 1. of this paragraph, then additional years shall be added to the financing period so that the cost is paid off by the conclusion of the financing period but in no case shall not exceed forty (40) years.*
- An employer ceasing participation who is making installment payments as provided by this paragraph, may at any time payoff the remaining balance.*
- (e) *For purposes of financing the costs as provided by paragraph (c) of this subsection, the employer shall provide any security in any relevant real estate, chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letters of credit rights, and money. As it relates to an employer financing the costs with the systems:*
- 1. *A detailed financing statement shall be provided to the Kentucky Retirement Systems board listing all assets to be used as security and the value certified by a licensed attorney;*
 - 2. *The security interest shall be a perfected interest in accordance with provisions set forth in KRS Chapter 355; and*
 - 3. *The perfected security interest shall attach until the amount owed under paragraph (c) of this subsection is paid in full.*

The board shall not deny an employer ceasing participation under the provisions of this subsection the ability to finance their cost of ceasing participation based upon the level or adequacy of information or security provided by this subsection.

- (9) The Kentucky Retirement Systems shall promulgate administrative regulations pursuant to KRS Chapter 13A to administer this section; and
- ~~(10)(9)~~ Any employer who voluntarily ceases participation, or who is required to involuntarily cease participation as provided in this section, shall hold the Commonwealth harmless from damages, attorney's fees and costs from legal claims for any cause of action brought by any member or retired member of the departing employer.

➔Section 2. KRS 61.565 is amended to read as follows:

- (1) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652, each employer participating in the County Employees Retirement System as provided for in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute annually to the respective retirement system an amount equal to the percent, as computed under subsection (2) of this section, of the creditable compensation of its employees to be known as the "normal contributions," and an additional amount to be known as the "actuarially accrued liability contribution" which shall be computed by amortizing the total unfunded actuarially accrued liability over a period of thirty (30) years using the level-percentage-of-payroll amortization method. This method shall be used beginning with the 2007 actuarial valuation. The initial thirty (30) year amortization period shall begin with the 2007 actuarial valuation, except as provided by paragraph (b) of this subsection.
- (b) Effective with the 2013 actuarial valuation, the amortization period for the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System shall be reset to a new thirty (30) year period for purposes of calculating the actuarially accrued liability contribution prescribed by this subsection.
- (c) Any significant increase in the actuarially accrued liability due to benefit improvements after the 2007 valuation shall be amortized using the level-percentage-of-payroll amortization method over a separate thirty (30) year period commencing in the year of the actuarial valuation in which the benefit improvements are first reflected.
- (2) The normal contribution rate shall be determined by the entry age normal cost funding method. The actuarially accrued liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the actuarially accrued liability contribution shall be determined on actuarial bases adopted by the board.
- (3) (a) Normal contribution and the actuarially accrued liability contribution rates shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium.
- (b) The board may amend contribution rates as of July 1 of the second year of a biennium for the County Employees Retirement System, if it is determined on the basis of a subsequent actuarial valuation that amended contribution rates are necessary to satisfy the requirements of subsections (1) and (2) of this section.
- (c) Effective for employer contribution rates payable on or after July 1, 2014, the board shall not have the authority to amend contribution rates as of July 1 of the second year of the biennium for the Kentucky Employees Retirement System and the State Police Retirement System.
- (4) The system shall advise each employer prior to the beginning of each biennium, or prior to July 1 of the second year of a biennium for employers participating in the County Employees Retirement System, of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under subsections (1) to (3) of this section.
- (5) The General Assembly shall pay the full actuarially required contribution rate, as prescribed by this section, to the Kentucky Employees Retirement System and the State Police Retirement System in fiscal years occurring on or after July 1, 2014.
- (6) Notwithstanding any other provision of KRS Chapter 61 *or 78* to the contrary, ~~the board shall establish~~ employer contribution *established by the board* ~~rates~~ for the County Employees Retirement System *that are*

payable on or after July 1, 2018, and until June 30, 2028, [that will phase in to the full actuarially required contribution] for the pension and health insurance funds, including the normal cost contribution and the actuarially accrued liability contribution for each fund, shall not increase by more than twelve percent (12%) in terms of projected dollars paid by participating employers over the prior fiscal year as determined by the system's consulting actuary [fund over a ten (10) year period using the [2007-2008] fiscal year employer contribution for the health insurance fund as a base employer rate and incrementally increasing the employer rate from fiscal year 2008-2009 through fiscal year 2017-2018].

➔Section 3. KRS 18A.225 is amended to read as follows:

- (1) (a) The term "employee" for purposes of this section means:
 1. Any person, including an elected public official, who is regularly employed by any department, office, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567; ***or is eligible to participate in a retirement plan established by an employer who ceases participating in the Kentucky Employees Retirement System or the County Employees Retirement System pursuant to subsection (8) of Section 1 of this Act;***
 2. Any certified or classified employee of a local board of education;
 3. Any elected member of a local board of education;
 4. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and
 5. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program;
- (b) The term "health benefit plan" for the purposes of this section means a health benefit plan as defined in KRS 304.17A-005;
- (c) The term "insurer" for the purposes of this section means an insurer as defined in KRS 304.17A-005; and
- (d) The term "managed care plan" for the purposes of this section means a managed care plan as defined in KRS 304.17A-500.
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more insurers authorized to do business in this state, a group health benefit plan that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994,

and shall include a mail-order drug option as provided in subsection (13) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

- (b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions the commissioner of insurance approves, whether or not otherwise permitted by the insurance laws.
 - (c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (20) of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.
 - (d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.
 - (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including but not limited to loss ratios, reserves, and reinsurance agreements.
 - (f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.
 - (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.
 - (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (3) The premiums may be paid by the policyholder:
- (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;
 - (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or
 - (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education

institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.

- (4) If an employee moves his place of residence or employment out of the service area of an insurer offering a managed health care plan, under which he has elected coverage, into either the service area of another managed health care plan or into an area of the Commonwealth not within a managed health care plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health benefit plan.
- (5) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.
- (6) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.
- (7) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.
- (8) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.
- (10) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.
- (11) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
- (12) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.
- (13) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.

- (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
 - (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.
- (14) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months pursuant to KRS 304.17A-132.
 - (15) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for the diagnosis and treatment of autism spectrum disorders consistent with KRS 304.17A-142.
 - (16) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining amino acid-based elemental formula pursuant to KRS 304.17A-258.
 - (17) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
 - (18) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
 - (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.
 - (20) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:
 - (a) The regional rating bid scenario shall not include a request for bid on a statewide option;
 - (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;
 - (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;
 - (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and
 - (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.
 - (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.
 - (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section shall comply with the provisions of KRS 304.17A-270 and 304.17A-525.

- (23) Any full insured health benefit plan or self insured plan issued or renewed on or after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to 304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641 pertaining to emergency medical care, KRS 304.99-123, and any administrative regulations promulgated thereunder.

➔Section 4. Notwithstanding KRS 446.250, if there is a conflict between amendments to any section of the Kentucky Revised Statutes which appears in both House Bill 185 and Senate Bill 151 as enacted at the 2018 Regular Session of the General Assembly, the provisions of House Bill 185 shall prevail.

➔Section 5. Whereas addressing the financial concerns facing the state-administered retirement systems is imperative to public employers, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Vetoed April 5, 2018. Veto overridden April 13, 2018. Became law April 14, 2018.

CHAPTER 171

(HB 366)

AN ACT relating to revenue measures, making an appropriation therefor, and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established in the State Treasury a trust and agency account to be known as the Volkswagen settlement fund. The fund shall consist of moneys designated to the Commonwealth from that settlement.*
- (2) *The fund shall be administered by the Energy and Environment Cabinet.*
- (3) *Notwithstanding KRS 45.229, fund amounts not expended at the close of the fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (4) *Any interest earned from moneys deposited in the fund shall become a part of the fund and shall not lapse.*

➔Section 2. KRS 224.50-868 is amended to read as follows:

- (1) (a) 1. *Prior to July 1, 2018*~~[Until June 30, 2018]~~, a person purchasing a new motor vehicle tire in Kentucky shall pay to the retailer a one dollar (\$1) fee at the time of the purchase of that tire. *The fee shall not be subject to the Kentucky sales tax.*
2. *Beginning July 1, 2018, but prior to July 1, 2020, a fee is hereby imposed upon a retailer at the rate of two dollars (\$2) for each new motor vehicle tire sold in Kentucky. The fee shall be subject to the Kentucky sales tax.*
3. *A retailer may pass the fee imposed by this paragraph on to the purchaser of the new tire.*
- (b) A new tire is a tire that has never been placed on a motor vehicle wheel rim, but it is not a tire placed on a motor vehicle prior to its original retail sale or a recapped tire.
- (c) The term "motor vehicle" as used in this section shall mean "motor vehicle" as defined in KRS 138.450.~~[The fee shall not be subject to the Kentucky sales tax.]~~
- (2) When a *retailer sells*~~[person purchases]~~ a new motor vehicle tire in Kentucky to replace another tire, the tire that is replaced becomes a waste tire subject to the waste tire program. *The retailer shall encourage the purchaser of the new tire*~~[person purchasing the new motor vehicle tire shall be encouraged by the retailer]~~ to leave the waste tire with the retailer or meet the following requirements:
 - (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);
 - (b) Deliver the waste tire to a person registered in accordance with the waste tire program; or

- (c) Reuse the waste tire for its original intended purpose or an agricultural purpose.
- (3) (a) A retailer shall report to the Department of Revenue on or before the twentieth day of each month the number of new motor vehicle tires sold during the preceding month and the number of waste tires received from customers that month.
- (b) The report shall be filed on forms and contain information as the Department of Revenue may require.
- (c) The retailer shall *be allowed to retain an amount equal to five percent (5%) of the fees due provided the amount due is not delinquent at the time of payment*~~remit with the report ninety five percent (95%) of the fees collected for the preceding month and may retain a five percent (5%) handling fee~~.
- (4) A retailer shall:
 - (a) Accept from the purchaser of a new tire, if offered, for each new motor vehicle tire sold, a waste tire of similar size and type; and
 - (b) Post notice at the place where retail sales are made that state law requires:
 - 1. The retailer to accept, if offered, a waste tire for each new motor vehicle tire sold and that a person purchasing a new motor vehicle tire to replace another tire shall comply with subsection (2) of this section; ~~and~~
 - 2. *The two dollar (\$2) new tire fee is*~~the notice shall also include the following wording: "State law requires a new tire buyer to pay one dollar (\$1) for each new tire purchased. The money is collected and~~ used by the state to oversee the management of waste tires, including cleaning up abandoned waste tire piles and preventing illegal dumping of waste tires."
- (5) A retailer shall comply with the requirements of the recordkeeping system for waste tires established by KRS 224.50-874.
- (6) A retailer shall transfer waste tires only to a person who presents a letter from the cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid waste disposal facility permit issued by the cabinet, unless the retailer is delivering the waste tires to a destination outside Kentucky and the waste tires will remain in the retailer's possession until they reach that destination.
- (7) The cabinet shall, in conjunction with the Waste Tire Working Group, develop the informational fact sheet to be made publicly available on the cabinet's Web site and available in print upon request. The fact sheet shall identify ways to properly dispose of the waste tire and present information on the problems caused by improper waste tire disposal.

➔Section 3. KRS 157.621 is amended to read as follows:

- (1) In addition to the levy required by KRS 157.440(1)(b) to participate in the Facilities Support Program of Kentucky, local school districts that have made the levy required by KRS 157.440(1)(b) are authorized to levy the following additional equivalent rates to support debt service, new facilities, or major renovations of existing school facilities, which levies shall not be subject to recall under any provision of the Kentucky Revised Statutes, or to voter approval under the provisions of KRS 157.440(2):
 - (a) 1. Prior to April 24, 2008, local school districts that have experienced student population growth during a five (5) year period may levy an additional five cents (\$0.05) equivalent rate for debt service and new facilities. The tax rate levied by the district under this provision shall not be equalized by state funding, except as provided in paragraph (b) of this subsection. Any levy imposed under this paragraph prior to April 24, 2008, by a local school district shall continue until removed by the local school district.
 - 2. A local school district shall meet the following criteria in order to levy the tax provided in subparagraph 1. of this paragraph:
 - a. Growth of at least one hundred fifty (150) students in average daily attendance and three percent (3%) overall growth for the five (5) preceding years;
 - b. Bonded debt to the maximum capability of at least eighty percent (80%) of capital outlay from the Support Education Excellence in Kentucky funding program, all revenue from the local facility tax, and all receipts from state equalization on the local facility tax;
 - c. Current student enrollment in excess of available classroom space; and

- d. A local school facility plan that has been approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission;
- (b) 1. In addition to the levy authorized by paragraph (a) of this subsection, a local school district may levy an additional five cents (\$0.05) equivalent rate under the same terms and conditions established by paragraph (a) of this subsection beginning in fiscal year 2003-2004 if the levy was made prior to April 24, 2008, and if the local school district:
 - a. Levied the five cents (\$0.05) equivalent rate authorized by paragraph (a) of this subsection; and
 - b. Still meets the requirements established by paragraph (a)2. of this subsection.
 - 2. Any school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph 1. of this paragraph shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in fiscal year 2003-2004. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b).
 - 3. Any levy imposed under this paragraph prior to April 24, 2008, by a local school district shall continue until removed by the local school district; and
- (c) 1. A local school district that meets the following conditions may levy an additional five cents (\$0.05) equivalent rate on and after April 24, 2008:
 - a. The local school district is located in a county that will have more students as a direct result of the new mission established for Fort Knox by the Base Realignment and Closure (BRAC) 2005 issued by the United States Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990, Pub. L. No. 100-526, Part A of Title XXIX of 104 Stat. 1808, 10 U.S.C. sec. 2687 note; and
 - b. The commissioner of education has determined, based upon the presentation of credible data, that the projected increased number of students is sufficient to require new facilities or the major renovation of existing facilities to accommodate the new students, and has approved the imposition of the additional levy.
 - 2. Any local school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph 1. of this paragraph, and that has not received equalization funding under subsection (2) or (3) of this section, shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in the fiscal year following the fiscal year in which the levy authorized by subparagraph 1. of this paragraph is imposed. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b).
 - 3. Any levy imposed under this paragraph by a local school district shall continue until removed by the local school district.
- (2) (a) Any local school district that, prior to April 27, 2016, levied an equivalent rate that:
 - 1. Was subject to recall at the time it was levied; and
 - 2. Included a rate of at least five cents (\$0.05) equivalent rate for the purpose of debt service for school construction or major renovation of existing school facilities;

shall be eligible for retroactive equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in fiscal year 2003-2004, subject to the fiscal condition of the Commonwealth and the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b).
 - (b) It is the intent of the General Assembly that for levies described in this subsection that are imposed on or after April 27, 2016, equalization funds, if provided by the General Assembly, shall terminate upon the earlier of June 30, 2038, or the date the bonds for the local school district supported by this equalization funding are retired. Equalization shall be subject to the fiscal condition of the Commonwealth and the provision of funding by the General Assembly.

(3) Any local school district that:

- (a) Levied an equivalent tax rate as of April 24, 2008, that included at least ten cents (\$0.10) that was devoted to building purposes, or that had debt service corresponding to a ten cents (\$0.10) equivalent rate;
- (b) Did not receive equalized growth funding pursuant to subsection (1)(b)2. of this section; and
- (c) Has been approved by the commissioner of education;

shall be eligible for equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in fiscal year 2005-2006, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b). Equalization funds shall be available to a local school district pursuant to this subsection until the earlier of June 30, ~~2038~~~~2025~~, or the date the bonds for the local school district supported by this equalization funding are retired.

- (4) (a) Notwithstanding any other provision of this section, any local school district receiving equalization funding prior to April 27, 2016, related to an equivalent rate levy described in subsection (1), (2), (3), or (5) of this section shall continue to receive the equalization funding related to the applicable equivalent rate levy, subject to the limitations established by subsections (1), (2), (3), and (5) of this section, and subject to the fiscal condition of the Commonwealth and the provision of funding by the General Assembly, until amended by subsequent action of the General Assembly. A local school district described in this paragraph shall not be eligible to receive equalization for any additional equivalent rate levies made by it on or after April 27, 2016.
- (b) Notwithstanding any other provision of this section, any local school district that has imposed an equivalent rate levy described in subsection (1)(a) or (b) or (2) of this section prior to April 27, 2016, that qualifies for equalization but that has not yet received equalization funding shall be eligible for equalization funding as provided in subsection (1)(a) or (b) or (2) of this section, subject to the provision of funding by the General Assembly.
- (c) On and after April 24, 2008, a local school district not included in paragraph (a) or (b) of this subsection shall be prohibited from imposing an equivalent rate levy under the provisions of subsection (1)(a) or (b) of this section, and shall not be eligible for equalization funding under the provisions of this section.
- (d) On and after April 24, 2008, a local school district meeting the requirements of subsection (1)(c) of this section may impose the levy authorized by subsection (1)(c) of this section, and shall qualify for equalization as provided in subsection (1)(c) of this section, subject to the provision of funding by the General Assembly.
- (5) (a) Any local school district that:

- 1. Had school facilities classified as Category 5 on May 18, 2010, by the Kentucky Department of Education; and
- 2. Levied an additional five cents (\$0.05) equivalent tax rate prior to April 27, 2016, for debt service, new construction, and major renovation beyond the five cents (\$0.05) equivalent tax rate required by KRS 157.440(1)(b), except as provided in paragraph (b) of this subsection;

shall be eligible for equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in the fiscal year following the fiscal year in which the levy was imposed. This levy shall be subject to the recall provisions of KRS 132.017.

- (b) School districts that levied a five cents (\$0.05) equivalent tax rate for debt service, new construction, and major renovation, beyond the rate required by KRS 157.440(1)(b) prior to May 18, 2010, shall not be required to levy an additional tax to receive the equalization funds provided in paragraph (a) of this subsection.
- (c) If the school district utilizes the equalization funds to support a bond issue for construction purposes, equalization funds shall be provided until the earlier of twenty (20) years or date the bonds are retired.
- (d) In the event that a school district receives funding pursuant to this subsection to support construction of a new school facility and subsequently, as a result of litigation, receives funding for the same facility for which state funds were provided, that school district shall reimburse the Commonwealth an amount

equal to the amount provided under paragraph (a) of this subsection. Any funds received in this manner shall be deposited in the budget reserve trust fund account established in KRS 48.705.

➔Section 4. KRS 158.441 is amended to read as follows:

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

- (1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs;
- (2) "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed:
 - (a) Through a contract between a local law enforcement agency and a school district; *or*
 - (b) ***Through a contract as secondary employment for an officer, as defined in KRS 16.010, between the Department of Kentucky State Police and a school district;*** and
- (3) "School security officer" means a person employed by a local board of education who has been appointed a special law enforcement officer pursuant to KRS 61.902 and who has specialized training to work with youth at a school site.

➔Section 5. KRS 157.410 is amended to read as follows:

For each school year the Finance and Administration Cabinet, on the certification of the chief state school officer, shall draw warrants on the State Treasurer for the amount of the public school fund due each district. Checks shall be issued by the State Treasurer and transmitted to the Department of Education or electronically transferred for distribution to the proper officials of the school districts when the districts have fully complied with the school laws and administrative regulations of the Kentucky Board of Education. The chief state school officer shall determine on or before August 15 of each year the tentative allotment of school funds to which each district is entitled under the provisions of KRS 157.310 to 157.440. On July 1, August 1, and September 1, of each fiscal year, one-twelfth (1/12) of the prior year's allotment minus the capital outlay shall be paid each school district. On the first of each month thereafter until the final calculation is completed, one-twelfth (1/12) of each district's share of the tentative calculation minus capital outlay shall be distributed. On or before ~~March~~**May** 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

➔Section 6. KRS 160.463 is amended to read as follows:

- (1) The school board of each public school system~~[in any county having 300,000 or more inhabitants]~~ shall direct its superintendent to publish ***the complete annual financial statement and the school report card***~~[, in full,]~~ annually:~~[;]~~
 - (a) In the newspaper of the largest general circulation in the county;~~[;]~~
 - (b) ***Electronically on a Web site of the school district; or***
 - (c) ***By printed copy at a prearranged site at the main branch of the public library within the school district.***
- (2) ***If publication on a Web site of the school district or by printed copy at the public library is chosen, the superintendent shall be directed to publish notification in the newspaper of the largest circulation in the county as to the location where the document can be viewed by the public.***
- (3) ***The notification shall include the address of the library or the electronic address of the Web site where the documents can be viewed***~~[the annual financial statements of the school system audited by certified public accountants or an accountant approved by the State Department of Education].~~
- (4) Each system's financial statements shall be prepared and presented on a basis consistent with that of the other systems.

➔Section 7. KRS 160.431 is amended to read as follows:

- (1) The local district superintendent shall appoint a finance officer who shall be responsible for the cash, investment, and financial management of the school district.
- (2)
 - (a) A person initially employed as a school finance officer on or after July 1, 2015, shall obtain certification from the Department of Education prior to holding the position and entering the duties of the position of school finance officer.
 - (b) The Kentucky Board of Education shall promulgate administrative regulations to prescribe the criteria and procedures to be used in the certification process for a school finance officer.
 - (c) The administrative regulations promulgated under this subsection shall specify:
 1. The initial qualification requirements for school finance officer certification;
 2. The certification application and appeal process; and
 3. The certification renewal process.
- (3) The school finance officer shall be required to complete forty-two (42) hours of continuing education every two (2) years from a provider approved by the Department of Education. The Kentucky Board of Education shall promulgate administrative regulations to identify and prescribe the criteria for fulfilling the requirements of this subsection. The administrative regulations shall specify:
 - (a) The topics of continuing education;
 - (b) Qualifications for continuing education providers;
 - (c) Consequences for failure to meet the continuing education requirement; and
 - (d) Requirements for reinstatement of school finance officer certification.
- (4)
 - (a) The finance officer shall present a detailed monthly financial report for board approval to include the previous month's revenues and expenditures of the district. The monthly report shall be posted on the district's Web site for a minimum of six (6) months after its approval.
 - (b) Within six (6) months following the end of each fiscal year, the finance officer shall submit to the Kentucky Department of Education a detailed annual financial report to include the district's total assets, liabilities, revenues, and expenditures. The annual report shall be posted on the district's Web site and department's Web site for a minimum of two (2) years.
 - (c)
 1. The Department of Education shall review each district's annual financial report and shall provide, within two (2) months of receipt, the local board of education a written report indicating the financial status of the district. The department's written report shall be posted on the department's Web site and the district's Web site for a minimum of two (2) years.
 2. The commissioner of education shall annually present to the Interim Joint Committee on Education a copy of the department's written report for each district.
 - (d) Nothing in this subsection shall lessen the obligation of a school district to publish its financial statements in accordance with the provisions of ***Section 6 of this Act***~~KRS 424.220~~.

➔Section 8. KRS 424.220 is amended to read as follows:

- (1) Excepting officers of a city of the first class or a consolidated local government, a county containing such a city or consolidated local government, a public agency of such a city, consolidated local government, or county, or a joint agency of such a city, consolidated local government, and county, or of a school district of such a city, consolidated local government, or county, and excepting officers of a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census or an urban-county government, every public officer of any ~~school district,~~ city, consolidated local government, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, consolidated local government, county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. Pursuant to subsections (2) and (3) of KRS 91A.040, each city with a population of less than one thousand (1,000) based upon the most recent federal decennial census shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.

- (2) The statement shall show:
 - (a) The total amount of funds collected and received during the fiscal year from each individual source; and
 - (b) The total amount of funds disbursed during the fiscal year to each individual payee. The list shall include only aggregate amounts to vendors exceeding one thousand dollars (\$1,000).
- (3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including but not limited to road department, jails, solid waste, public safety, and administrative personnel.
- (4) ***The financial reporting and publishing requirements for a school district are provided in Section 6 of this Act.***~~The amount of salaries paid to all teachers shall be shown as a lump sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump sum expenditures by category, including but not limited to administrative, maintenance, transportation, and food service. The local board of education and the fiscal court shall have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees.~~
- (5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.
- (6)
 - (a) The officer shall, except in a city publishing its audit in accordance with KRS 91A.040(6), within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts.
 - (b) The appropriate officer of a city that has not conducted an annual audit under the provisions of KRS 91A.040(2) or (3) may publish a legal display advertisement meeting the requirements of subsection (7)(b) of this section which shall satisfy the publication requirements set out in paragraph (a) of this subsection.
- (7) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of a city, including the appropriate officer of any municipally owned electric, gas, or water system, shall elect to satisfy the requirements of subsection (6) of this section by:
 - (a) Publishing an audit report in accordance with KRS 91A.040(6); and
 - (b) Publishing a legal display advertisement of not less than six (6) column inches in a newspaper qualified under KRS 424.120 that the statement required by subsection (1) of this section has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio and television station which has on file with the city a written request to be provided a statement. The advertisement shall be published within ninety (90) days after the close of the fiscal year.
- (8) The appropriate officer of a county shall satisfy the requirements of subsection (6) of this section by publishing the county's audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with KRS 91A.040(6).

➔Section 9. KRS 278.020 is amended to read as follows:

- (1) (a) No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except:
 1. Retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business; ***or***
 2. ***A water district created under KRS Chapter 74 or a water association formed under KRS Chapter 273 that undertakes a waterline extension or improvement project if the water district***

or water association is a Class A or B utility as defined in the uniform system of accounts established by the commission according to KRS 278.220 and:

- a. The water line extension or improvement project will not cost more than five hundred thousand dollars (\$500,000); or*
- b. The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring commission approval as required by KRS 278.300.*

In either case, the water district or water association shall not, as a result of the water line extension or improvement project, increase rates to its customers;~~[-]~~

until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

- (b)* Upon the filing of an application for a certificate, and after any public hearing which the commission may in its discretion conduct for all interested parties, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part, except that the commission shall not refuse or modify an application submitted under KRS 278.023 without consent by the parties to the agreement.
 - (c)* The commission, when considering an application for a certificate to construct a base load electric generating facility, may consider the policy of the General Assembly to foster and encourage use of Kentucky coal by electric utilities serving the Commonwealth.
 - (d)* The commission, when considering an application for a certificate to construct an electric transmission line, may consider the interstate benefits expected to be achieved by the proposed construction or modification of electric transmission facilities in the Commonwealth.
 - (e)* Unless exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.
- (2) For the purposes of this section, construction of any electric transmission line of one hundred thirty-eight (138) kilovolts or more and of more than five thousand two hundred eighty (5,280) feet in length shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a certificate of public convenience and necessity. However, ordinary extensions of existing systems in the usual course of business not requiring such a certificate shall include:
- (a) The replacement or upgrading of any existing electric transmission line; or
 - (b) The relocation of any existing electric transmission line to accommodate construction or expansion of a roadway or other transportation infrastructure; or
 - (c) An electric transmission line that is constructed solely to serve a single customer and that will pass over no property other than that owned by the customer to be served.
- (3) Prior to granting a certificate of public convenience and necessity to construct facilities to provide the services set forth in KRS 278.010(3)(f), the commission shall require the applicant to provide a surety bond, or a reasonable guaranty that the applicant shall operate the facilities in a reasonable and reliable manner for a period of at least five (5) years. The surety bond or guaranty shall be in an amount sufficient to ensure the full and faithful performance by the applicant or its successors of the obligations and requirements of this chapter and of all applicable federal and state environmental requirements. However, no surety bond or guaranty shall be required for an applicant that is a water district or water association or for an applicant that the commission finds has sufficient assets to ensure the continuity of sewage service.
- (4) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.
- (5) No utility shall apply for or obtain any franchise, license, or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a

certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

- (6) No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.
- (7) No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission. Any acquisition of control without prior authorization shall be void and of no effect. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a utility, whether through the ownership of voting securities, by effecting a change in the composition of the board of directors, by contract or otherwise. Control shall be presumed to exist if any individual or entity, directly or indirectly, owns ten percent (10%) or more of the voting securities of the utility. This presumption may be rebutted by a showing that ownership does not in fact confer control. Application for any approval or authorization shall be made to the commission in writing, verified by oath or affirmation, and be in a form and contain the information as the commission requires. The commission shall approve any proposed acquisition when it finds that the same is to be made in accordance with law, for a proper purpose and is consistent with the public interest. The commission may make investigation and hold hearings in the matter as it deems necessary, and thereafter may grant any application under this subsection in whole or in part and with modification and upon terms and conditions as it deems necessary or appropriate. The commission shall grant, modify, refuse, or prescribe appropriate terms and conditions with respect to every such application within sixty (60) days after the filing of the application therefor, unless it is necessary, for good cause shown, to continue the application for up to sixty (60) additional days. The order continuing the application shall state fully the facts that make continuance necessary. In the absence of that action within that period of time, any proposed acquisition shall be deemed to be approved.
- (8) Subsection (7) of this section shall not apply to any acquisition of control of any:
 - (a) Utility which derives a greater percentage of its gross revenue from business in another jurisdiction than from business in this state if the commission determines that the other jurisdiction has statutes or rules which are applicable and are being applied and which afford protection to ratepayers in this state substantially equal to that afforded such ratepayers by subsection (7) of this section;
 - (b) Utility by an acquirer who directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the utility, including any entity created at the direction of such utility for purposes of corporate reorganization; or
 - (c) Utility pursuant to the terms of any indebtedness of the utility, provided the issuance of indebtedness was approved by the commission.
- (9) In a proceeding on an application filed pursuant to this section, any interested person, including a person over whose property the proposed transmission line will cross, may request intervention, and the commission shall, if requested, conduct a public hearing in the county in which the transmission line is proposed to be constructed, or, if the transmission line is proposed to be constructed in more than one county, in one of those counties. The commission shall issue its decision no later than ninety (90) days after the application is filed, unless the commission extends this period, for good cause, to one hundred twenty (120) days. The commission may utilize the provisions of KRS 278.255(3) if, in the exercise of its discretion, it deems it necessary to hire a competent, qualified and independent firm to assist it in reaching its decision. The issuance by the commission of a certificate that public convenience and necessity require the construction of an electric transmission line shall be deemed to be a determination by the commission that, as of the date of issuance, the construction of the line is a prudent investment.
- (10) The commission shall not approve any application under subsection (6) or (7) of this section for the transfer of control of a utility described in KRS 278.010(3)(f) unless the commission finds, in addition to findings required by those subsections, that the person acquiring the utility has provided evidence of financial integrity to ensure the continuity of sewage service in the event that the acquirer cannot continue to provide service.

- (11) The commission shall not accept for filing an application requesting authority to abandon facilities that provide services as set forth in KRS 278.010(3)(f) or to cease providing services unless the applicant has provided written notice of the filing to the following:
- (a) Kentucky Division of Water;
 - (b) Office of the Attorney General; and
 - (c) The county judge/executive, mayor, health department, planning and zoning commission, and public sewage service provider of each county and each city in which the utility provides utility service.
- (12) The commission may grant any application requesting authority to abandon facilities that provide services as set forth in KRS 278.010(3)(f) or to cease providing services upon terms and conditions as the commission deems necessary or appropriate, but not before holding a hearing on the application and no earlier than ninety (90) days from the date of the commission's acceptance of the application for filing, unless the commission finds it necessary for good cause to act upon the application earlier.
- (13) If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to that end the provisions are declared to be severable.

➔Section 10. KRS 150.021 is amended to read as follows:

- (1) The Department of Fish and Wildlife Resources shall constitute a department of state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner, a Fish and Wildlife Resources Commission, the Division of Law Enforcement, and other agents and employees provided for in this chapter. The department shall enforce the laws and regulations adopted under this chapter relating to wildlife and shall exercise all powers necessarily incident thereto.
- (2) Any powers conferred by this chapter upon the Department of Fish and Wildlife Resources, the Fish and Wildlife Resources Commission, or the commissioner of the Department of Fish and Wildlife Resources, and any powers conferred by KRS Chapter 235 shall be exercised subject to the provisions of KRS Chapters 42, 45, 45A, 56, and 64, which chapters in all respects are controlling.
- (3)
 - (a) ***The Finance and Administration Cabinet shall assess the Department of Fish and Wildlife Resources each fiscal year a fee in an amount equal to five percent (5%) of the debt service associated with all phases and implementation of the capital project to replace, repair, or maintain the two (2) way radio system utilized by the Department of Kentucky State Police.***
 - (b) ***The fee shall be assessed on each phase of the implementation of the two (2) way radio system and shall continue to be assessed until all debt for the system has been retired.***

➔Section 11. KRS 132.285 is amended to read as follows:

- (1)
 - (a) Except as provided in subsection (3) of this section, any city may by ordinance elect to use the annual county assessment for property situated within ~~the~~~~[such]~~ city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city.
 - (b) Any city making ~~the~~~~[such]~~ election ***provided in paragraph (a) of this subsection*** shall notify the department ~~of Revenue~~ and property valuation administrator prior to the next succeeding assessment to be used for city levies. In such event the assessment finally determined for county tax purposes shall serve as a basis of all city levies for the fiscal year commencing on or after the county assessment date.
 - (c) Each city which elects to use the county assessment shall annually appropriate and pay each fiscal year to the office of the property valuation administrator for deputy and other authorized personnel allowance, supplies, maps and equipment, and other authorized expenses of the office one-half of one cent (\$0.005) for each one hundred dollars (\$100) of assessment, ~~except~~~~[; provided,]~~ that sums paid shall not be:
 - 1. Less than two hundred fifty dollars (\$250); ~~or~~~~[, nor]~~
 - 2. More than:
 - a. Forty thousand dollars (\$40,000) in a city having an assessment subject to city tax of less than two billion dollars (\$2,000,000,000); ~~or~~

- b.* Fifty thousand dollars (\$50,000) in a city having an assessment subject to city tax of ~~more than~~ two billion dollars (\$2,000,000,000) **or more, but less than three billion dollars (\$3,000,000,000); or**
 - c.* **Sixty thousand dollars (\$60,000) in a city having an assessment subject to city tax of three billion dollars (\$3,000,000,000) or more.**
- (d)* This allowance shall be based on the assessment as of the previous January 1.
 - (e)* Each property valuation administrator shall file a claim with the city for the county assessment, which shall include the recapitulation submitted to the city pursuant to KRS 133.040(2).
 - (f)* The city shall order payment in an amount not to exceed the appropriation authorized by this section.
 - (g)* The property valuation administrator shall be required to account for all moneys paid to his **or her** office by the city and any funds unexpended by the close of each fiscal year shall carry over to the next fiscal year.
 - (h)* Notwithstanding any statutory provisions to the contrary, the assessment dates for ~~the[such]~~ city shall conform to the corresponding dates for the county, and ~~the[such]~~ city may by ordinance establish additional financial and tax procedures that will enable it effectively to adopt the county assessment.
 - (i)* The legislative body of any city adopting the county assessment may fix the time for levying the city tax rate, due and delinquency dates for taxes, and any other dates that will enable it effectively to adopt the county assessment, notwithstanding any statutory provisions to the contrary.
 - (j)* Any such city may, by ordinance, abolish any office connected with city assessment and equalization.
 - (k)* Any city which elects to use the county assessment shall have access to the assessment records as soon as completed and may obtain a copy of that portion of the records which represents the assessment of property within ~~the[such]~~ city by additional payment of the cost thereof.
 - (l)* Once any city elects to use the county assessment, ~~that[such]~~ action cannot be revoked without notice to the department ~~of Revenue~~ and the property valuation administrator six (6) months prior to the next date as of which property is assessed for state and county taxes.
- (2) In the event any omitted property is assessed by the property valuation administrator as provided by KRS 132.310, ~~the[such]~~ assessment shall be considered as part of the assessment adopted by the city according to subsection (1) of this section.
 - (3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities shall use the assessment required to be made pursuant to KRS 132.487(5).
 - (4) Notwithstanding the provisions of subsection (1) of this section, each city which elects to use the county assessment for ad valorem taxes levied for 1996 or subsequent years, and which used the county assessment for ad valorem taxes levied for 1995, shall appropriate and pay to the office of the property valuation administrator for the purposes set out in subsection (1) of this section an amount equal to the amount paid to the office of the property valuation administrator in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.

➔Section 12. KRS 132.590 is amended to read as follows:

- (1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the Department of Revenue annually. Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.
- (2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the department shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the

population group is reached. If the county population as certified by the department increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no effect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the Department of Revenue the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Property Valuation Administrators			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	\$45,387	\$46,762	\$48,137	\$49,513
Group II				
5,000-9,999	49,513	50,888	52,263	53,639
Group III				
10,000-19,999	53,639	55,014	56,389	57,765
Group IV				
20,000-29,999	55,702	57,765	59,828	61,891
Group V				
30,000-44,999	59,828	61,891	63,954	66,017
Group VI				
45,000-59,999	61,891	64,641	67,392	70,143
Group VII				
60,000-89,999	66,017	68,768	71,518	74,269
Group VIII				
90,000-499,999	68,080	71,518	74,957	78,395
Group IX				
500,000 and up	72,206	75,644	79,083	82,521

- (3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on July 14, 2000, and shall not be retroactive to the preceding January 1.
- (b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1.
- (c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an annual incentive of six hundred eighty-seven dollars and sixty-seven cents (\$687.67) per calendar year for each forty (40) hour training unit successfully completed based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If a property valuation administrator fails without good cause, as determined by the commissioner of the Kentucky Department of Revenue, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. No property valuation administrator shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each property valuation administrator shall be allowed to carry forward up to forty (40) hours of training credit into

the following calendar year for the purpose of satisfying the minimum amount of training for that year. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky Department of Revenue. Each unit shall be available to property valuation administrators in each office based on continuing service in that office. The Kentucky Department of Revenue shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

- (4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.
- (5) Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The Department of Revenue may make grade classification changes corresponding to any approved for department employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the department may extend cost-of-living increases approved for department employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.
- (6) Beginning with the 1990-1992 biennium, the Department of Revenue shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. The total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the Department of Revenue. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.
- (7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the Department of Revenue a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The Department of Revenue shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.
- (8) Each property valuation administrator may appoint any persons approved by the Department of Revenue to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the Department of Revenue and shall be subject to the approval of the Department of Revenue. The Personnel Cabinet shall provide advice and technical assistance to the Department of Revenue in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the Department of Revenue in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the Department of Revenue prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.
- (9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to

County Tax of:

At Least

But Less Than

Amount

ACTS OF THE GENERAL ASSEMBLY

----	\$100,000,000	\$0.005 for each \$100 of the first \$50,000,000 and \$0.002 for each \$100 over \$50,000,000.
\$100,000,000	150,000,000	\$0.004 for each \$100 of the first \$100,000,000 and \$0.002 for each \$100 over \$100,000,000.
150,000,000	300,000,000	\$0.004 for each \$100 of the first \$150,000,000 and \$0.003 for each \$100 over \$150,000,000.
300,000,000	----	\$0.004 for each \$100.

- (10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to

County Tax of:

At Least	But Less Than	Limit
----	\$700,000,000	\$25,000
\$700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	{—————} 7,500,000,000	175,000
7,500,000,000	-----	250,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

- (11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the Department of Revenue only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.
- (12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.
- (13) The provisions of this section shall apply to urban-county governments and consolidated local governments. In an urban-county government and a consolidated local government, all the rights and obligations conferred on fiscal courts or consolidated local governments by the provisions of this section shall be exercised by the urban-county government or consolidated local government.

- (14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A or when a consolidated local government is established through merger of existing city and county governments as provided by KRS Chapter 67C, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars (\$100,000) for any urban-county government or consolidated local government with an assessment subject to countywide tax of less than ~~five~~~~three~~ billion dollars ~~(\$5,000,000,000)~~~~(\$3,000,000,000)~~, one hundred ~~seventy-five~~~~twenty-five~~ thousand dollars ~~(\$175,000)~~~~(\$125,000)~~ for an urban-county government or consolidated local government with an assessment subject to countywide tax between ~~five~~~~three~~ billion dollars ~~(\$5,000,000,000)~~~~(\$3,000,000,000)~~ and ~~seven~~~~five~~ billion ~~five hundred million~~ dollars ~~(\$7,500,000,000)~~~~(\$5,000,000,000)~~, and two hundred ~~fifty~~ thousand dollars ~~(\$250,000)~~~~(\$200,000)~~ for an urban-county government or consolidated local government with an assessment subject to countywide tax in excess of ~~seven~~~~five~~ billion ~~five hundred million~~ dollars ~~(\$7,500,000,000)~~~~(\$5,000,000,000)~~. For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.
- (15) Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9) and (10) of this section, whichever is greater.

➔Section 13. KRS 210.504 is amended to read as follows:

- (1) The commission created in KRS 210.502 shall meet as often as necessary to accomplish its purpose but shall meet at least quarterly or upon the call of either co-chair, the request of four (4) or more members, or the request of the Governor.
- (2) The commission shall receive, integrate, and report the findings and recommendations of the regional planning councils established under KRS 210.506. The regional planning councils shall provide additional information or study particular issues upon request of the commission.
- (3) The commission:
 - (a) May establish work groups to develop statewide recommendations from information and recommendations received from the regional planning councils;
 - (b) May establish work groups to address issues referred to the commission; and
 - (c) Shall ensure that the regional planning councils have an opportunity to receive, review, and comment on any recommendation or product issued by a work group established under this subsection before the commission takes any formal action on a recommendation or product of a work group.
- (4) The commission shall serve in an advisory capacity to accomplish the following:
 - (a) Based on information provided under subsection (2) of this section:
 1. Assess the needs statewide of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;
 2. Assess the capabilities of the existing statewide treatment delivery system including gaps in services and the adequacy of a safety net system; and
 3. Assess the coordination and collaboration of efforts between public and private facilities and entities, including but not limited to the Council on Postsecondary Education when assessing workforce issues, and the roles of the Department for Behavioral Health, Developmental and Intellectual Disabilities and the regional community mental health centers, state hospitals, and other providers;
 - (b) Identify funding needs and related fiscal impact, including Medicaid reimbursement, limitations under government programs and private insurance, and adequacy of indigent care;
 - (c) Recommend comprehensive and integrated programs for providing mental health and substance abuse services and preventive education to children and youth, utilizing schools and community resources;

- (d) Develop recommendations to decrease the incidence of repeated arrests, incarceration, and multiple hospitalizations of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;~~and~~
- (e) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of persons with mental illness, alcohol and other drug abuse disorders, and dual diagnoses, family members, providers, and advocates in quality assurance efforts;
and
- (f) ***Recommend improvements in identifying, treating, housing, and transporting prisoners in jails and juveniles with mental illness who reside in detention centers. Items to be reviewed include but are not limited to:***
 - 1. Recommendations for statutory and regulatory changes;***
 - 2. Training and treatment funding;***
 - 3. Cost-sharing proposals;***
 - 4. Housing and transportation costs;***
 - 5. Appropriate treatment sites; and***
 - 6. Training requirements for local jailers and other officers of the court who may come in contact with persons deemed mentally ill and who are incarcerated or in detention.***
- (5) The commission shall develop a comprehensive state plan that provides a template for decision-making regarding program development, funding, and the use of state resources for delivery of the most effective continuum of services in integrated statewide settings appropriate to the needs of the individual with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. The state plan shall also include strategies for increasing public awareness and reducing the stigma associated with mental illness and substance abuse disorders.
- (6) The state plan shall advise the Governor and the General Assembly concerning the needs statewide of individuals with mental illness, alcohol and other drug disorders, and dual diagnoses and whether the recommendations should be implemented by administrative regulations or proposed legislation for the General Assembly.
- (7) The commission shall develop a two (2) year work plan, beginning in 2003, that specifies goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses and efforts to reduce the stigma associated with mental illness and substance abuse disorders.
- (8) The commission shall review the plan and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.

➔Section 14. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health and Family Services, each community board for mental health or individuals with an intellectual disability shall:

- (1) Review and evaluate services for mental health or individuals with an intellectual disability provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health and Family Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;
- (2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;
- (3) Promote, arrange, and implement working agreements with other social service agencies, both public and private, and with other educational and judicial agencies;
- (4) Adopt and implement policies to stimulate effective community relations;
- (5) Be responsible for the development and approval of an annual plan and budget;
- (6) Act as the administrative authority of the community program for mental health or individuals with an intellectual disability;

- (7) Oversee and be responsible for the management of the community program for mental health or individuals with an intellectual disability in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health and Family Services;~~and~~
- (8) Comply with the provisions of KRS 65A.010 to 65A.090; *and*
- (9) ***Deliver the training recommended by Section 13 of this Act to local jailers and other officers of the court who may come in contact with persons deemed mentally ill and who are incarcerated or in detention.***

➔Section 15. KRS 164.013 is amended to read as follows:

- (1) The Council on Postsecondary Education shall set the qualifications for the position of president of the council. Except for the first president appointed under subsection (2) of this section, the council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider, interview, and propose three (3) or more candidates for the position of president. The council may seek additional names from the search firm or from other sources.
- (2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.
- (3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.
- (4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established in KRS 164.003(2).
- (5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.
- (6) (a) ~~{The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university.}~~The council shall set the salary of the president ***at an amount no greater than the salary the president was receiving on January 1, 2012.***
(b) ***The salary of the president,***~~{which}~~ shall be exempt from state employee salary limitations as set forth in KRS 64.640.
- (7) The president shall be accorded a contract to serve for a term not to exceed five (5) years, which is renewable at the pleasure of the council.
- (8) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. All personnel positions of the Council on Higher Education, as of May 30, 1997, with the exception of the position of executive director, shall be transferred to the Council on Postsecondary Education. All personnel shall be transferred at the same salary and benefit levels. Notwithstanding the provisions of KRS 11A.040, any person employed by the Council on Higher Education prior to May 30, 1997, may accept immediate employment with any governmental entity or any postsecondary education organization or institution in the Commonwealth and may carry out the employment duties assigned by that entity, organization, or institution.
- (9) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the strategic implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.
- (10) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under KRS 164.020.

- (11) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

➔Section 16. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;
- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;
- (6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;
- (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;
- (8)
 - (a) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent, ***except the Kentucky Community and Technical College System may assess a mandatory student fee not to exceed eight dollars (\$8) per credit hour to be used exclusively for debt service on amounts not to exceed seventy-five percent (75%) of the total projects cost of the Kentucky Community and Technical College System agency bond projects included in 2014 Ky. Acts ch. 117, Part II, J., 11.***
 - (b) ***The Kentucky Community and Technical College System mandatory fee established in this subsection shall only be used for debt service on agency bond projects.***
 - (c) ***Any fee established as provided by this subsection shall cease to be assessed upon the retirement of the project bonds for which it services debt.***
 - (d) ***Prior to the issuance of any bonds, the Kentucky Community and Technical College System shall certify in writing to the secretary of the Finance and Administration Cabinet that sufficient funds have been raised to meet the local match equivalent to twenty-five percent (25%) of the total project cost;***
- (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including but not limited to appropriations to

the Kentucky Adult Education Program. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11)
 - (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.
 - (b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;
- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;
- (14) Establish course credit, transfer, and degree components as required in KRS 164.2951;
- (15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;
- (16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
 - (a) Consistency with the institution's mission and the strategic agenda;
 - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
 - (c) Elimination of unnecessary duplication of programs within and among institutions; and
 - (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;
- (18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;
- (19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with

administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

- (20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
- (21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
- (22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;
- (23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
- (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;
- (25)
 - (a) Develop in cooperation with each public university and the Kentucky Community and Technical College System a comprehensive orientation and education program for new members of the council and the governing boards and continuing education opportunities for all council and board members. For new members of the council and institutional governing boards, the council shall:
 1. Ensure that the orientation and education program comprises six (6) hours of instruction time and includes but is not limited to information concerning the roles of the council and governing board members, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget and finances, strategic plans and priorities, institutional policies and procedures, board fiduciary responsibilities, legal considerations including open records and open meetings requirements, ethical considerations arising from board membership, and the board member removal and replacement provisions of KRS 63.080;
 2. Establish delivery methods by which the orientation and education program can be completed in person or electronically by new members within one (1) year of their appointment or election;
 3. Provide an annual report to the Governor and Legislative Research Commission of those new board members who do not complete the required orientation and education program; and
 4. Invite governing board members of private colleges and universities licensed by the Council on Postsecondary Education to participate in the orientation and education program described in this subsection;
 - (b) Offer, in cooperation with the public universities and the Kentucky Community and Technical College System, continuing education opportunities for all council and governing board members; and
 - (c) Review and approve the orientation programs of each public university and the Kentucky Community and Technical College System for their governing board members to ensure that all programs and information adhere to this subsection;
- (26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
- (27) Select and appoint a president of the council under KRS 164.013;
- (28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;
- (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

- (30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;
- (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;
- (34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Kentucky Adult Education Program, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:
 - (a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Kentucky Adult Education Program and with other agencies and institutions;
 - (b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;
 - (c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;
 - (d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and
 - (e) Administer the adult education and literacy initiative fund created under KRS 164.041;
- (35) Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council shall monitor the results on an ongoing basis;
- (36) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(1);
- (37) Cooperate with the Office for Education and Workforce Statistics and ensure the participation of the public institutions as required in KRS 151B.133;
- (38) Pursuant to KRS 63.080, review written notices from the Governor or from a board of trustees or board of regents concerning removal of a board member or the entire appointed membership of a board, investigate the member or board and the conduct alleged to support removal, and make written recommendations to the Governor and the Legislative Research Commission as to whether the member or board should be removed; and
- (39) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

➔Section 17. KRS 164.5805 is amended to read as follows:

- (1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the former Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the former Cabinet for Workforce Development to the Kentucky Community and Technical College System.
 - (a) The staff positions in the former Department for Technical Education and the former Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.
 - (b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.
 - (c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.
 - (d) The following provisions shall apply to the employees who are transferred from the former Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:
 1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;
 2. Employees who have earned continuing status as defined in KRS 156.800 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;
 3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;
 4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under KRS 161.220 or the Kentucky Employees Retirement System under KRS 61.525;
 5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and
 6. Employees shall be provided life insurance coverage and optional insurance or investment programs.
 - (e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the former Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.

- (2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board, ***except that no housing allowance shall be provided for the president of the Kentucky Community and Technical College System.***

➔SECTION 18. A NEW SECTION OF KRS 153.210 TO 153.235 IS CREATED TO READ AS FOLLOWS:

An entity involved in producing or financing arts on a local or statewide basis, since the inception of fiscal year 2004-2005, which received a total of twenty-five thousand dollars (\$25,000) or less as a result of appropriations or grants from state or local governmental units, shall be exempt from the requirements of:

- (1) ***KRS 61.805 to 61.850; and***
- (2) ***KRS 61.870 to 61.884.***

➔Section 19. KRS 151.611 is amended to read as follows:

- (1) A Stream Restoration and Mitigation Authority may be established for any HUC 10 watershed in the Commonwealth. Each authority formed under this section shall be a public body corporate and politic with the authority to:
 - (a) Sue and be sued;
 - (b) Enter into contracts with public and private individuals and corporations and engage in cooperative agreements with federal, state, and local governments or agencies, utilities, special districts, and nonprofit organizations for the performance of its duties and functions under KRS 151.610 to 151.615;
 - (c) Employ personnel as needed, as its fiscal resources may allow, and use the services of volunteers individually or through agreement with governmental agencies, nonprofit organizations, or foundations;
 - (d) Receive and expend funds from any source, including but not limited to private donations, charitable contributions, public grants, 404 In-lieu Fee Program, and appropriations from the General Assembly; and
 - (e) Acquire, sell, and hold real interests in property.
- (2) Nothing in KRS 151.610 to 151.615 shall be construed to empower or authorize an authority established under KRS 151.610 to 151.615 to exercise regulatory powers with respect to water resources or water quality. An authority established under KRS 151.610 to 151.615 shall not be vested with the power of eminent domain.
- (3) It is the preference of the General Assembly that funds contributed by a permittee under a Section 404 Permit into an in-lieu fund for a project designed for stream restoration and mitigation be utilized within the watershed where the adverse effects occur. The General Assembly recognizes that conservation and protection of the water resources of the Commonwealth, including streams, rivers, wetlands, and riparian habitats, may involve, in addition to restoration and enhancement of aquatic and riparian habitat, proper management of wastewater and stormwater, and abatement of pre-existing sources of pollution. Where an authority has been qualified by the USACE to manage an in-lieu fee or other compensatory mitigation arrangement that is approved after July 15, 2008, under Section 404, and to the extent that the USACE and the Mitigation Review Team has approved the use of such funds for elimination of pre-existing sources of pollution, the authority may expend a portion of the funds for those purposes, provided that the:
 - (a) Funds spent on water quality improvements are a component of a stream or wetland restoration plan for replacement of aquatic resource functions and values;~~and~~
 - (b) Project has been reviewed and approved by the USACE and the Division of Water as being consistent with Sections 404 and 401 of the Clean Water Act; ***and***
 - (c) ***In-lieu fees shall be available statewide, to all one hundred twenty (120) counties, subject to federal and state regulatory requirements.***
- (4) Nothing in KRS 151.610 to 151.615 shall preclude the authority, when acting as an approved qualified organization managing an in-lieu fee arrangement approved after July 15, 2008, from combining funding from other sources with in-lieu fees in order to achieve efficiencies in stream restoration or mitigation.

➔Section 20. KRS 61.637 is amended to read as follows:

- (1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August

- 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.
- (2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.
 - (3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.
 - (4)
 - (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.
 - (b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.
 - (c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
 - 1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;
 - 2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
 - 3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;
 - 4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691; and
 - 5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.
 - (5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).
 - (6)
 - (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.
 - (b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

- (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.
- (b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.
- (8) A retired member or his employer shall notify the retirement system if he has accepted employment or is serving as a volunteer with an employer that participates in the retirement system from which the member retired. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.
- (9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.
- (10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.
- (11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.
- (b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.
- (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.
- (b) The job descriptions and statements of duties shall be filed with the retirement office.
- (13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:
 - (a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;
 - (b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began;
 - (c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691;

- (d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and
 - (e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.
- (14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.
- (b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.
- (15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.
- (b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.
- (16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to purchase prior to his initial retirement.
- (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:
- (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
 - 1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
 - 2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
 - (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
 - 1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification,

the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
 3. Except as provided by KRS 70.291 to 70.293 and 95.022 *and except for any retiree employed as a school resource officer as defined by KRS 158.441*, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
 4. Except as provided by KRS 70.291 to 70.293 and 95.022 *and except for any retiree employed as a school resource officer as defined by KRS 158.441*, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, Local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;
- (c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
 2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;
 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293 and 95.022 *and except for any retiree employed as a school resource officer as defined by KRS 158.441*, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
 4. Except as provided by KRS 70.291 to 70.293 and 95.022 *and except for any retiree employed as a school resource officer as defined by KRS 158.441*, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;
- (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:
1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;
 2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;
 3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and
 4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service; and

- (f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:
1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or
 2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body.

➔Section 21. KRS 70.292 is amended to read as follows:

- (1) A *county police department or* county sheriff's office in the Commonwealth of Kentucky may employ police officers who have retired under the State Police Retirement System, Kentucky Employees Retirement System, or the County Employees Retirement System as provided by KRS 70.291 to 70.293.
- (2) An individual employed under KRS 70.291 to 70.293 shall have:
 - (a)
 1. Participated in the Law Enforcement Foundation Program fund under KRS 15.410 to 15.515; or
 2. Retired as a commissioned officer pursuant to KRS Chapter 16;
 - (b) Retired with at least twenty (20) years of service credit;

- (c) Been separated from service for the period required by KRS 61.637 so that the member's retirement is not voided;
- (d) Retired with no administrative charges pending; and
- (e) Retired with no pre-existing agreement between the individual and the **county police department or the sheriff's office** prior to the individual's retirement for the individual to return to work for the **county police department or the sheriff's office**.

➔Section 22. KRS 70.293 is amended to read as follows:

- (1) Individuals employed under KRS 70.291 to 70.293 shall:
 - (a) Serve for a term not to exceed one (1) year. The one (1) year employment term may be renewed annually at the discretion of the employing **county police department or sheriff's office**;
 - (b) Receive compensation according to the standard procedures applicable to the employing **county police department or sheriff's office**; and
 - (c) Be employed based upon need as determined by the **county police department or the** employing sheriff's office.
- (2) Notwithstanding any provisions of KRS 16.505 to 16.652, 18A.225 to 18A.2287, 61.510 to 61.705, or 78.510 to 78.852 to the contrary:
 - (a) Individuals employed under KRS 70.291 to 70.293 shall continue to receive all retirement and health insurance benefits to which they were entitled upon retiring in the applicable system administered by Kentucky Retirement Systems;
 - (b) Individuals employed under KRS 70.291 to 70.293 shall not be eligible to receive health insurance coverage through the **county police department, the** sheriff's office, or the fiscal court of the **county police department or sheriff's office**~~county~~;
 - (c) The **county police department, sheriff's office, or fiscal court of the county police department or sheriff's office** shall not pay any employer contributions or retiree health expense reimbursements to the Kentucky Retirement Systems required by KRS 61.637(17) for individuals employed under KRS 70.291 to 70.293; and
 - (d) The **county police department, sheriff's office, or fiscal court of the county police department or sheriff's office** shall not pay any insurance contributions to the state health insurance plan, as provided by KRS 18A.225 to 18A.2287, for individuals employed under KRS 70.291 to 70.293.
- (3) Individuals employed under KRS 70.291 to 70.293 shall be subject to any merit system, civil service, or other legislative due process provisions applicable to the **county police department or sheriff's office**. A decision not to renew a one (1) year appointment term under this section shall not be considered a disciplinary action or deprivation subject to due process.

➔Section 23. KRS 161.569 is amended to read as follows:

- (1) Any person electing to participate in the optional retirement plan shall be ineligible for membership in the regular retirement plan of the Kentucky Teachers' Retirement System for as long as the participant is employed in a position for which the optional retirement plan is available, except as provided in KRS 161.568(1).
- (2) Any person electing to participate in the optional retirement plan shall acknowledge in writing that the benefits payable to participants are not the obligation of the Commonwealth of Kentucky or the Kentucky Teachers' Retirement System, and that these benefits and other rights of the optional retirement plan are the liability and responsibility solely of the designated companies to which contributions have been made.
- (3) Benefits shall be payable to optional retirement plan participants or their beneficiaries by the designated companies in accordance with the contracts issued by each company and the retirement plan provisions adopted by each public institution.
- (4) Annuity contracts issued under the optional retirement plan and all rights of a participant in the optional retirement plan shall be exempt from any state, local, or municipal tax; assessment for the insolvency of any life, health, or casualty insurance company; any levy or sale, garnishment, or attachment; or any process whatsoever, and shall be unassignable except as otherwise specifically provided by the contracts offered under the optional retirement plan adopted by the respective public institutions of higher education. Except contracts

issued and rights accrued in the optional retirement plan on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

- (5) Each institution shall contribute for each payroll period of each fiscal year to the Kentucky Teachers' Retirement System, an amount equal to five and one-tenth percent (5.1%) of the total salaries of all persons who elect or elected to participate in the optional retirement plan instead of the Kentucky Teachers' Retirement System. This payment shall continue to be made until **June 30, 2018**~~July 1, 2048~~. **No contributions shall be payable on or after July 1, 2018, to the Kentucky Teachers' Retirement System for all persons who elect or elected to participate in the optional retirement plan instead of the Kentucky Teachers' Retirement System.**

➔SECTION 24. KRS 138.130 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this section to KRS 138.205:

- (1) (a) *"Chewing tobacco" means any leaf tobacco that is not intended to be smoked and includes loose leaf chewing tobacco, plug chewing tobacco, and twist chewing tobacco.*
- (b) *"Chewing tobacco" does not include snuff;*
- (2) (a) *"Cigarettes" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, except tobacco.*
- (b) *"Cigarettes" does not include reference tobacco products or electronic cigarettes;*
- (3) *"Cigarette tax" means the group of taxes consisting of:*
 - (a) *The tax imposed by subsection (1)(a) of Section 27 of this Act;*
 - (b) *The surtax imposed by subsection (1)(b) of Section 27 of this Act; and*
 - (c) *The surtax imposed by subsection (1)(c) of Section 27 of this Act;*
- (4) *"Department" means the Department of Revenue;*
- (5) *"Distributor" means any person within this state in possession of tobacco products for resale within this state on which the tobacco products tax imposed under subsection (2) of Section 27 of this Act has not been paid;*
- (6) *"Half-pound unit" means a consumer-sized container, pouch, or package:*
 - (a) *Containing at least four (4) ounces but not more than eight (8) ounces of chewing tobacco by net weight;*
 - (b) *Produced by the manufacturer to be sold to consumers as a half-pound unit and not produced to be divided or sold separately; and*
 - (c) *Containing one (1) individual container, pouch, or package;*
- (7) *"Manufacturer" means any person who manufactures or produces cigarettes or tobacco products within or without this state;*
- (8) *"Nonresident wholesaler" means any person who purchases cigarettes directly from the manufacturer and maintains a permanent location outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid;*
- (9) *"Person" means any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, the Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or any other group or combination acting as a unit;*
- (10) *"Pound unit" means a consumer-sized container, pouch, or package:*
 - (a) *Containing more than eight (8) ounces but not more than sixteen (16) ounces of chewing tobacco by net weight;*
 - (b) *Produced by the manufacturer to be sold to consumers as a pound unit and not produced to be divided or sold separately; and*
 - (c) *Containing one (1) individual container, pouch, or package;*

- (11) *"Reference tobacco products" means tobacco products or cigarettes made by a manufacturer specifically for an accredited state college or university to be held by the college or university until sale or transfer to a laboratory, hospital, medical center, institute, college or university, manufacturer, or other institution;*
- (12) *"Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes purchased by the wholesaler directly from the manufacturer on which the cigarette tax is unpaid, and who maintains an established place of business in this state where the wholesaler attaches cigarette tax evidence or receives untax-paid cigarettes;*
- (13) *"Retail distributor" means a retailer who has obtained a retail distributor's license under Section 33 of this Act;*
- (14) *"Retailer" means any person who sells to a consumer or to any person for any purpose other than resale;*
- (15) *"Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes or tobacco products, and distribution in any manner or by any means whatsoever;*
- (16) *"Sale at retail" means a sale to any person for any other purpose other than resale;*
- (17) *"Single unit" means a consumer-sized container, pouch, or package:*
 - (a) *Containing less than four (4) ounces of chewing tobacco by net weight;*
 - (b) *Produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately; and*
 - (c) *Containing one (1) individual container, pouch, or package;*
- (18) (a) *"Snuff" means tobacco that:*
 - 1. *Is finely cut, ground, or powdered; and*
 - 2. *Is not for smoking.*
 - (b) *"Snuff" includes snus;*
- (19) *"Sub-jobber" means any person who purchases cigarettes from a resident wholesaler, nonresident wholesaler, or unclassified acquirer licensed under Section 33 of this Act on which the cigarette tax has been paid and makes them available to retailers for resale. No person shall make cigarettes available to retailers for resale unless the person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes for resale in the regular course of business;*
- (20) *"Tax evidence" means any stamps, metered impressions, or other indicia prescribed by the department by administrative regulation as a means of denoting the payment of cigarette taxes;*
- (21) *"Tobacco products" means any smokeless tobacco products, smoking tobacco, chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for chewing or smoking, or both, or any kind or form of tobacco that is suitable to be placed in an individual's oral cavity, except cigarettes;*
- (22) *"Tobacco products tax" means the tax imposed by subsection (2) of Section 27 of this Act;*
- (23) *"Transporter" means any person transporting untax-paid cigarettes obtained from any source to any destination within this state, other than cigarettes transported by the manufacturer thereof;*
- (24) *"Unclassified acquirer" means any person in this state who acquires cigarettes from any source on which the cigarette tax has not been paid, and who is not a person otherwise required to be licensed under Section 33 of this Act;*
- (25) *"Untax-paid cigarettes" means any cigarettes on which the cigarette tax imposed by Section 27 of this Act has not been paid;*
- (26) *"Untax-paid tobacco products" means any tobacco products on which the tobacco products tax imposed by Section 27 of this Act has not been paid; and*
- (27) *"Vending machine operator" means any person who operates one (1) or more cigarette vending machines.*

➔Section 25. KRS 138.132 is amended to read as follows:

- (1) It is the declared legislative intent of KRS 138.130 to 138.205 that any untax-paid tobacco products held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.
- (2)
 - (a) If a retailer, who is not a licensed retail distributor, purchases tobacco products from a licensed distributor and the purchase invoice does not contain the separate identification and display of the **tobacco products**~~[excise] tax~~~~[required by KRS 138.140(4)(d)3.]~~, the retailer shall, within twenty-four (24) hours, notify the department in writing.
 - (b) The notification shall include the name and address of the person from whom the tobacco products were purchased and a copy of the purchase invoice.
 - (c) The tobacco products for which the required information was not included on the invoice shall be retained by the retailer, and not sold, for a period of fifteen (15) days after giving the proper notice as required by this subsection.
 - (d) After the fifteen (15) day period, the retailer may pay the tax due on the tobacco products described in paragraph (c) of this subsection according to administrative regulations promulgated by the department, and after which may proceed to sell the tobacco products.
- (3) If a retailer, who is not a licensed retail distributor, purchases tobacco products for resale from a person not licensed under KRS 138.195(7), which is prohibited by **subsection (2) of Section 27 of this Act**~~KRS 138.140(4)(e)]~~, the retailer may not sell those tobacco products until the retailer applies for and is granted a retail distributor's license under KRS 138.195(7)(b).
- (4) If, upon examination, the department determines that the retailer has failed to comply with the provisions of subsection (3) of this section, the retailer shall pay all tax and interest and applicable penalties due and the following shall apply:
 - (a) For the first offense, an additional penalty shall be assessed equal to ten percent (10%) of the tax due;
 - (b) For a second offense within three (3) years or less of the first offense, an additional penalty shall be assessed equal to twenty-five percent (25%) of the tax due; and
 - (c) For a third offense or subsequent offense within three (3) years or less of the first offense, the tobacco products shall be contraband and subject to seizure and forfeiture as provided in subsection (5) of this section.
- (5)
 - (a) Whenever a representative of the department finds contraband tobacco products within the borders of this state, the tobacco products shall be immediately seized and stored in a depository to be determined by the representative.
 - (b) At the time of seizure, the representative shall deliver to the person in whose custody the tobacco products are found a receipt for the seized products. The receipt shall state on its face that any inquiry concerning any tobacco products seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
 - (c) Immediately upon seizure, the representative shall notify the commissioner of the nature and quantity of the tobacco products seized. Any seized tobacco products shall be held for a period of twenty (20) days, and if after that period no person has claimed the tobacco products as his or her property, the commissioner shall cause the tobacco products to be destroyed.
- (6) All fixtures, equipment, materials, and personal property used in substantial connection with the sale or possession of tobacco products involved in a knowing and intentional violation of KRS 138.130 to 138.205 shall be contraband and subject to seizure and forfeiture as follows:
 - (a) The department's representative shall seize the property and store the property in a safe place selected by the representative; and
 - (b) The representative shall proceed as provided in KRS 138.165(2). The commissioner shall cause the property to be sold after notice published pursuant to KRS Chapter 424. The proceeds from the sale shall be applied as provided in KRS 138.165(2).
- (7) The owner or any person having an interest in the fixtures, materials, or personal property that has been seized as provided by subsection (6) of this section may apply to the commissioner for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the commissioner that the owner or person having an interest in the property was without fault, the department shall remit the forfeiture.

- (8) Any party aggrieved by an order entered under this section may appeal to the Kentucky Claims Commission pursuant to KRS 49.220.

➔Section 26. KRS 138.135 is amended to read as follows:

- (1) (a) Every manufacturer, whether located in this state or outside this state, that ships tobacco products to a distributor, retailer, retail distributor, or any other person located in this state shall file a report with the department on or before the twentieth day of each month identifying all such shipments made by the manufacturer during the preceding month. The department, within its discretion, may allow a manufacturer to file the report for periods other than monthly.
- (b) The reports shall identify:
 1. The names and addresses of the persons in this state to whom the shipments were made;
 2. The quantities of tobacco products shipped, by type of product and brand; and
 3. Any other information the department may require.
- (2) Each licensed distributor and each licensed retail distributor shall keep in each licensed place of business complete and accurate records for that place of business, including:
 - (a) Itemized invoices of:
 1. Tobacco products purchased, manufactured, imported, or caused to be imported into this state from outside this state, or shipped or transported to other distributors or retailers in this state or outside this state, including type of product and brand;
 2. All sales of tobacco products, including sales of tobacco products manufactured or produced in this state, including type of product and brand; and
 3. All tobacco products transferred to retail outlets owned or controlled by the licensed distributor, including type of product and brand; and
 - (b) Any other records required by the department.
- (3) Each retailer of tobacco products shall keep complete and accurate records of all purchases of tobacco products, including invoices that identify:
 - (a) The distributor's name and address;
 - (b) The name, quantity, and purchase price of the product purchased;
 - (c) The license number of the distributor licensed under KRS 138.195(7); and
 - (d) The *tobacco products*~~[excise]~~ tax *imposed*~~[—as—required]~~ by *Section 27 of this Act*~~[KRS 138.140(4)(d)3]~~.
- (4) All books, records, invoices, and documents required by this section shall be preserved, in a form prescribed by the department, for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.

➔Section 27. KRS 138.140 is amended to read as follows:

- (1) (a) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of three cents (\$0.03) on each twenty (20) cigarettes.
- (b)~~[(2)]~~ Effective *July 1, 2018*~~[April 1, 2009]~~, a surtax shall be paid in addition to the tax levied in *paragraph (a) of this subsection*~~[(1) of this section]~~ at a proportionate rate of *one dollar and six cents (\$1.06)*~~[fifty six cents (\$0.56)]~~ on each twenty (20) cigarettes.~~[This tax shall be paid only once, at the same time the tax imposed by subsection (1) of this section is paid.]~~
- (c)~~[(3)]~~ ~~[Effective June 1, 2005,]~~A surtax shall be paid in addition to the tax levied in *paragraph (a) of this subsection*~~[(1) of this section]~~ and in addition to the surtax levied by *paragraph (b) of this subsection*~~[(2) of this section]~~, at a proportionate rate of one cent (\$0.01) on each twenty (20) cigarettes.~~[This tax shall be paid at the same time the tax imposed by subsection (1) of this section and the surtax imposed by subsection (2) of this section are paid.]~~ The revenues from this surtax shall be deposited in the cancer research institutions matching fund created in KRS 164.043.

- (d) *The surtaxes imposed by paragraphs (b) and (c) of this subsection shall be paid at the time that the tax imposed by paragraph (a) of this subsection is paid.*

(2)(4) (a) ~~Effective August 1, 2013,~~ An excise tax is hereby imposed upon every distributor for the privilege of selling tobacco products in this state at the following rates:

1. Upon snuff at the rate of nineteen cents (\$0.19) per each one and one-half (1-1/2) ounces or portion thereof by net weight sold;
2. Upon chewing tobacco at the rate of:
 - a. Nineteen cents (\$0.19) per each single unit sold;
 - b. Forty cents (\$0.40) per each half-pound unit sold; or
 - c. Sixty-five cents (\$0.65) per each pound unit sold.

If the container, pouch, or package on which the tax is levied contains more than sixteen (16) ounces by net weight, the rate that shall be applied to the unit shall equal the sum of sixty-five cents (\$0.65) plus nineteen cents (\$0.19) for each increment of four (4) ounces or portion thereof exceeding sixteen (16) ounces sold; and

3. Upon tobacco products sold, at the rate of fifteen percent (15%) of the actual price for which the distributor sells tobacco products, except snuff and chewing tobacco, within the Commonwealth.
- (b) The net weight posted by the manufacturer on the container, pouch, or package or on the manufacturer's invoice shall be used to calculate the tax due on snuff or chewing tobacco.

- (c) 1. A retailer located in this state shall not purchase tobacco products for resale to consumers from any person within or outside this state unless that person is a distributor licensed under KRS 138.195(7)(a) or the retailer applies for and is granted a retail distributor's license under KRS 138.195(7)(b) for the privilege of purchasing **untax-paid**~~untaxed~~ tobacco products and remitting the tax as provided in this paragraph.

2. A licensed retail distributor of tobacco products shall be subject to the excise tax as follows:
 - a. On purchases of **untax-paid**~~untaxed~~ snuff, at the same rate levied by paragraph (a)1. of this subsection;
 - b. On purchases of **untax-paid**~~untaxed~~ chewing tobacco, at the same rates levied by paragraph (a)2. of this subsection; and
 - c. On purchases of **untax-paid**~~untaxed~~ tobacco products, except snuff and chewing tobacco, fifteen percent (15%) of the total purchase price as invoiced by the retail distributor's supplier.

- (d) 1. The licensed distributor that first possesses tobacco products for sale to a retailer in this state or for sale to a person who is not licensed under KRS 138.195(7) shall be the distributor liable for the tax imposed by this subsection except as provided in subparagraph 2. of this paragraph.
2. A distributor licensed under KRS 138.195(7)(a) may sell tobacco products to another distributor licensed under KRS 138.195(7)(a) without payment of the excise tax. In such case, the purchasing licensed distributor shall be the distributor liable for the tax.
3. A licensed distributor or licensed retail distributor shall:
 - a. Identify and display the distributor's or retail distributor's license number on the invoice to the retailer; and
 - b. Identify and display the excise tax separately on the invoice to the retailer. If the excise tax is included as part of the product's sales price, the licensed distributor or licensed retail distributor shall list the total excise tax in summary form by tax type with invoice totals.
4. It shall be presumed that the excise tax has not been paid if the licensed distributor or licensed retail distributor does not comply with subparagraph 3. of this paragraph.

- (e) No tax shall be imposed on tobacco products under this subsection that are not within the taxing power of this state under the Commerce Clause of the United States Constitution.

(3)(5) (a) The taxes imposed by subsections (1) and (2)(4) of this section:

- 1. Shall not apply to reference tobacco products; and*~~[(6) The taxes imposed by subsections (1) to (4) of this section shall be paid only once, regardless of the number of times the cigarettes, or tobacco products]~~*2. Shall be paid only once, regardless of the number of times the cigarettes, or tobacco products may be sold.*
- (b) The taxes imposed by subsection (1)(a) and (b) and subsection (2) of this section shall be reduced by:*
- 1. Fifty percent (50%) on any product as to which a modified risk tobacco product order is issued under 21 U.S.C. sec. 387k(g)(1); or*
 - 2. Twenty-five percent (25%) for any product as to which a modified risk tobacco product order is issued under 21 U.S.C. sec. 387k(g)(2).*
- (4) A reference tobacco product shall carry a marking labeling the contents as a research cigarette or a research tobacco product to be used only for tobacco-health research and experimental purposes and shall not be offered for sale, sold, or distributed to consumers.*
- ~~(5)(7)~~ The department may prescribe forms and promulgate administrative regulations to execute and administer the provisions of this section.
- ~~(6)(8)~~ The General Assembly recognizes that increasing taxes on tobacco products should reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The relative taxes on tobacco products proposed in this section reflect the growing data from scientific studies suggesting that although smokeless tobacco poses some risks, those health risks are significantly less than the risks posed by other forms of tobacco products. Moreover, the General Assembly acknowledges that some in the public health community recognize that tobacco harm reduction should be a complementary public health strategy regarding tobacco products. Taxing tobacco products according to relative risk is a rational tax policy and may well serve the public health goal of reducing smoking-related mortality and morbidity and lowering health care costs associated with tobacco-related disease.
- (7) Any person subject to the taxes imposed under subsections (1) and (2) of this section that:*
- (a) Files an application related to a modified risk tobacco product shall report to the department that an application has been filed within thirty (30) days of that filing; and*
 - (b) Receives an order authorizing the marketing of a modified risk tobacco product shall report to the department that an authorizing order has been received.*
- (8) Upon receipt of the information required by subsection (7)(b) of this section, the department shall reduce the tax imposed on the modified risk tobacco product as required by subsection (3)(c) of this section on the first day of the calendar month following the expiration of forty-five (45) days following receipt of the information required by subsection (7)(b) of this section.*

➔Section 28. KRS 138.143 is amended to read as follows:

- (1) Every retailer, sub-jobber, resident wholesaler, nonresident wholesaler, and unclassified acquirer shall:*
- (a) Take a physical inventory of all cigarettes in packages bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or in their control at 11:59 p.m. on **June 30, 2018**~~[March 31, 2009]~~. Inventory of cigarettes in vending machines may be accomplished by:*
 - 1. Taking an actual physical inventory;*
 - 2. Estimating the cigarettes in vending machines by reporting one-half (1/2) of the normal fill capacity of the machines, as reflected in individual inventory records maintained for vending machines; or*
 - 3. Using a combination of the methods prescribed in subparagraphs 1. and 2. of this paragraph;*
 - (b) File a return with the department on or before **July 10, 2018**~~[April 10, 2009]~~, showing the entire wholesale and retail inventories of cigarettes in packages bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or in their control at 11:59 p.m. on **June 30, 2018**~~[March 31, 2009]~~; and*

- (c) Pay a floor stock tax at a proportionate rate equal to **fifty cents (\$0.50)**~~thirty cents (\$0.30)~~ on each twenty (20) cigarettes in packages bearing a Kentucky tax stamp and unaffixed Kentucky tax stamps in their possession or control at 11:59 p.m. on **June 30, 2018**~~March 31, 2009~~.
- (2) Every retailer and sub-jobber shall:
- (a) 1. Take a physical inventory of all units of snuff possessed by them or in their control at 11:59 p.m. on March 31, 2009;
 2. File a return with the department on or before April 10, 2009, showing the entire inventory of snuff possessed by them or in their control at 11:59 p.m. on March 31, 2009; and
 3. Pay a floor stock tax at a proportionate rate equal to nine and one-half cents (\$0.095) on each unit of snuff in their possession or control at 11:59 p.m. on March 31, 2009; and
 - (b) 1. a. Take a physical inventory of all other tobacco products possessed by them or in their control at 11:59 p.m. on March 31, 2009;
 - b. File a return with the department on or before April 10, 2009, showing the entire inventories of other tobacco products possessed by them or in their control at 11:59 p.m. on March 31, 2009; and
 - c. Pay a floor stock tax at a proportionate rate equal to seven and one-half percent (7.5%) on the purchase price of other tobacco products in their possession or control at 11:59 p.m. on March 31, 2009.
 2. a. As used in this paragraph, "purchase price" means the actual amount paid for the other tobacco products subject to the tax imposed by this paragraph.
 - b. If the retailer or sub-jobber cannot determine the actual amount paid for each item of other tobacco product, the retailer or sub-jobber may use as the purchase price the amount per unit paid as reflected on the most recent invoice received prior to April 1, 2009, for the same category of other tobacco product.
 - c. To prevent double taxation, if the invoice used by the retailer or sub-jobber to determine the purchase price of the other tobacco product does not separately state the tax paid by the wholesaler, the retailer or sub-jobber may reduce the amount paid per unit by seven and one-half percent (7.5%).
- (3) (a) The taxes imposed by this section may be paid in three (3) installments. The first installment, in an amount equal to at least one-third (1/3) of the total amount due, shall be remitted with the return provided by the department on or before **July 10, 2018**~~April 10, 2009~~. The second installment, in an amount that brings the total amount paid to at least two-thirds (2/3) of the total amount due, shall be remitted on or before **August 10, 2018**~~May 10, 2009~~. The third installment, in an amount equal to the remaining balance, shall be remitted on or before **September 10, 2018**~~June 10, 2009~~.
- (b) Interest shall not be imposed against any outstanding installment payment not yet due from any retailer, sub-jobber, resident wholesaler, nonresident wholesaler, or unclassified acquirer who files the return and makes payments as required under this section.
- (c) Any retailer, sub-jobber, resident wholesaler, nonresident wholesaler, or unclassified acquirer who fails to file a return or make a payment on or before the dates provided in this section shall, in addition to the tax, pay interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the return was required to be filed.
- ➔Section 29. KRS 138.146 is amended to read as follows:
- (1) The **cigarette** tax~~imposed by KRS 138.130 to 138.205~~ shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.
 - (2) (a) The **cigarette** tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the wholesaler receives the cigarettes.
 - (b) A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the **cigarette** tax on the package.
 - (c) The affixed stamp shall be prima facie evidence of payment of **the cigarette** tax.

- (d) Unless stamps have been previously affixed, they shall be affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state.
 - (e) The evidence of *cigarette* tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state.
 - (f) The evidence of *cigarette* tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by the unclassified acquirer.
- (3) (a) The department shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of cigarette tax evidence, and the method and manner that tax evidence shall be affixed to the cigarettes.
- (b) All cigarette tax evidence prescribed by the department shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or other mark on the cigarette tax evidence.
- (c) The department shall maintain for at least three (3) years information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.
- (4) (a) Units of cigarette tax evidence shall be sold at their face value, but the department shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents (\$0.30) face value for each three dollars (\$3) of tax evidence purchased at face value and attributable to the tax assessed in *subsection (1)(a) of Section 27 of this Act*~~[KRS 138.140(1)]~~. No compensation shall be allowed for tax evidence purchased at face value attributable to the *surtaxes imposed*~~[tax assessed]~~ in *paragraphs (b) or (c) of subsection (1) of Section 27 of this Act*~~[KRS 138.140(2) or (3)]~~.
- (b) ~~1. — Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of offsetting the costs associated with paying the tax imposed under KRS 138.140(2), the department shall allow a limited amount of compensation in addition to the compensation provided in paragraph (a) of this subsection for a restricted time to any licensed wholesaler. The additional compensation shall be an amount of tax evidence, attributable to the tax assessed in KRS 138.140(1), equal to twelve cents (\$0.12) face value for each three dollars (\$3) of tax evidence purchased at face value on or after June 1, 2005, and before December 1, 2005. The additional compensation provided shall sunset 12 midnight November 30, 2005.~~
- ~~2. — During the six (6) month period beginning on June 1, 2005, and ending before December 1, 2005, no licensed wholesaler or stamping agent shall receive the additional compensation provided under subparagraph 1. of this subsection on the purchase of an amount of stamps over one hundred fifty percent (150%) of the total number of stamps purchased by the same licensed wholesaler or stamping agent for the period beginning on December 1, 2004, and ending before May 31, 2005.~~
- ~~(c) — The department shall have the power to withhold compensation as provided in *paragraph*~~[paragraphs]~~ (a) ~~and (b)~~ of this subsection from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any *administrative* regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.~~
- (5) (a) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing the evidence from the department.
- (b) Tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person.
- (c) Unaffixed tax evidence may be returned to the department~~[]~~ for credit or refund for any reason satisfactory to the department.
- (6) (a) In the event any retailer *receives*~~[shall receive]~~ into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, *the retailer*~~[he]~~ shall, within twenty-four (24) hours, notify the department~~[]~~ of *the receipt*~~[such fact]~~.

- (b) *The notification to the department*~~[Such notice]~~ shall be in writing, *stating*~~[and shall give]~~ the name of the person from whom *the*~~[such]~~ cigarettes were received~~[,]~~ and the quantity of *those*~~[such]~~ cigarettes.~~[, and such]~~
- (c) *The* written notice may be:
 1. Given to any field agent of the department; ~~or [The written notice may also be]~~
 2. Directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
- (d) If *the*~~[such]~~ notice is given by means of the United States mail, it shall be sent by certified mail.
- (e) Any such cigarettes shall be retained by *the*~~[such]~~ retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection.
- (f) The retailer may, at his option, pay the tax due on *those*~~[any such]~~ cigarettes according to *administrative*~~[rules and]~~ regulations~~[to be]~~ prescribed by the department, and proceed to sell *those cigarettes*~~[the same]~~ after *the*~~[such]~~ payment.
- (7) (a) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed.~~[, but]~~
- (b) Any licensed wholesaler, licensed sub-jobber, or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

➔Section 30. KRS 138.155 is amended to read as follows:

In lieu of the affixing of cigarette tax evidence to individual packages of cigarettes as the means of denoting payment of the cigarette tax~~[imposed by KRS 138.130 to 138.205]~~, the department may prescribe, by *an administrative regulation*~~[rules and regulations]~~ sufficient to protect the revenue of this state, a method of reporting, payment, and collection of *the cigarette*~~[such]~~ tax, without the affixing of tax evidence to individual packages of cigarettes. In the event~~[such]~~ a system is adopted *by administrative regulation*, no compensation for reporting for the purpose of such tax in excess of two percent (2%) of the tax due shall be allowed to any person.

➔Section 31. KRS 138.165 is amended to read as follows:

- (1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-paid cigarettes held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.
- (2) (a) Whenever any peace officer of this state, or any representative of the department, finds any untax-paid cigarettes within the borders of this state in the possession of any person other than a licensee authorized to possess untax-paid cigarettes by the provisions of KRS 138.130 to 138.205, *those*~~[such]~~ cigarettes shall be immediately seized and stored in a depository to be selected by the officer or agent.
- (b) At the time of seizure, the officer or agent shall deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
- (c) Immediately upon seizure, the officer or agent shall notify the commissioner of the department~~[of Revenue]~~ of the nature and quantity of the goods seized.
- (d) Any seized goods shall be held for a period of twenty (20) days and if after *that*~~[such]~~ period no person has claimed the cigarettes~~[as his property]~~, the commissioner shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All proceeds, less the cost of sale, from the sale shall be paid into the Kentucky State Treasury for general fund purposes.
- (3) It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the department finds any vending machine within the borders of this state dispensing untax-paid cigarettes, *the officer or agent*~~[he]~~ shall immediately seize the vending machine and store the *vending machine*~~[same]~~ in a safe place selected by *the officer or agent*~~[him]~~. *The officer or agent*~~[He]~~ shall~~[thereafter]~~ proceed as provided in subsection (2) of this section and the commissioner of the department~~[of Revenue]~~ shall cause the vending machine to be sold, and the proceeds applied, as *established*~~[set out]~~ in subsection (2) of this section.

- (4) No *untax-paid* cigarettes~~[, on which the tax imposed by KRS 138.130 to 138.205 has not been paid,]~~ shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. If any peace officer or agent of the department finds any such motor vehicle, the vehicle shall be seized immediately and stored in a safe place. The peace officer or agent of the department shall~~[thereafter]~~ proceed as provided in subsection (2) of this section and the commissioner of the department~~[of Revenue]~~ shall cause the motor vehicle to be sold, and the proceeds applied, as *established*~~[set out]~~ in subsection (2) of this section.
- (5) (a) The owner or any person having an interest in any goods, machines or vehicles seized as provided under subsections (1) to (4) of this section may apply to the commissioner of the department~~[of Revenue]~~ for remission of the forfeiture for good cause shown.
- (b) If it is shown to the satisfaction of the department~~[of Revenue]~~ that the owner was without fault in the possession, dispensing, or transportation of the untax-paid cigarettes, the department~~[of Revenue]~~ shall remit the forfeiture.
- (c) If the department~~[of Revenue]~~ determines that the possession, dispensing, or transportation of untax-paid cigarettes was willful or intentional, the department~~[of Revenue]~~ may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by the department~~[of Revenue]~~ of not more than fifty percent (50%) of the value of the property forfeited. All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.
- (6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky Claims Commission pursuant to KRS 49.220.

➔Section 32. KRS 138.183 is amended to read as follows:

- (1) Notwithstanding any other provision of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 138.130 to 138.205 shall be personally and individually liable, both jointly and severally, for the *cigarette tax and the tobacco products tax*~~[taxes imposed under KRS 138.130 to 138.205]~~.
- (2) Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to every person holding a corporate office at the time the tax becomes or became due.
- (3) Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or KRS 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability partnership or any other person holding any equivalent office of a limited liability company, limited liability partnership or limited liability limited partnership subject to the provisions of KRS 138.130 to 138.205 shall be personally and individually liable, both jointly and severally, for the *cigarette tax and the tobacco products tax*~~[imposed under KRS 138.130 to 138.205]~~.
- (4) Dissolution, withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to every manager of a limited liability company, partner of a limited liability partnership or general partner of a limited liability limited partnership at the time the tax becomes or became due.
- (5) No person shall be personally and individually liable under this section who had no authority to collect, truthfully account for, or pay over any *cigarette tax or tobacco products tax*~~[imposed by KRS 138.130 to 138.205]~~ at the time the ~~taxes~~~~[tax]~~ imposed ~~become~~~~[becomes]~~ or became due.
- (6) "Taxes" as used in this section include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and 131.990.

➔Section 33. KRS 138.195 is amended to read as follows:

- (1) (a) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.

- (b) No person shall act as a distributor of tobacco products without first obtaining a license from the department as set out in this section.
- (c) For licenses effective for periods beginning on or after July 1, 2015, no individual, entity, or any other group or combination acting as a unit may be eligible to obtain a license under this section if the individual, or any partner, director, principal officer, or manager of the entity or any other group or combination acting as a unit has been convicted of or entered a plea of guilty or nolo contendere to:
 - 1. A crime relating to the reporting, distribution, sale, or taxation of cigarettes or tobacco products; or
 - 2. A crime involving fraud, falsification of records, improper business transactions or reporting; for ten (10) years from the expiration of probation or final discharge from parole or maximum expiration of sentence.
- (2) (a) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received.
- (b) Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid.
- (c) ~~Each~~~~[Such a]~~ license~~[or licenses]~~ shall be secured on or before July 1 of each year.~~[, and]~~
- (d) Each licensee shall pay the sum of five hundred dollars (\$500) for each~~[such]~~ year, or portion thereof, for which ~~each~~~~[such]~~ license is secured.
- (3) (a) Each sub-jobber shall secure a separate license for each place of business from which~~[Kentucky tax paid]~~ cigarettes, **upon which the cigarette tax has been paid**, are made available to retailers, whether ~~the~~~~[such]~~ place of business is located within or without this state.
- (b) ~~Each~~~~[Such]~~ license~~[or licenses]~~ shall be secured on or before July 1 of each year.~~[, and]~~
- (c) Each licensee shall pay the sum of five hundred dollars (\$500) for each~~[such]~~ year, or portion thereof, for which ~~each~~~~[such]~~ license is secured.
- (4) (a) Each vending machine operator shall secure a license for the privilege of dispensing~~[Kentucky tax paid]~~ cigarettes, **on which the cigarette tax has been paid**, by vending machines.
- (b) ~~Each~~~~[Such]~~ license shall be secured on or before July 1 of each year.~~[, and]~~
- (c) Each licensee shall pay the sum of twenty-five dollars (\$25) for each year, or portion thereof, for which ~~each~~~~[such]~~ license is secured.
- (d) No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator ~~and~~~~[, together with]~~ the license number assigned to ~~that~~~~[such]~~ operator by the department.
- (e) The department shall prescribe by administrative regulation the manner in which the information shall be affixed to the vending machine.
- (5) (a) Each transporter shall secure a license for the privilege of transporting cigarettes within this state.
- (b) ~~Each~~~~[Such]~~ license shall be secured on or before July 1 of each year.~~[, and]~~
- (c) Each licensee shall pay the sum of fifty dollars (\$50) for each~~[such]~~ year, or portion thereof, for which ~~each~~~~[such]~~ license is secured.
- (d) No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing:
 - 1. The name and address of the consignor and consignee;~~[,]~~
 - 2. The date acquired by the transporter;~~[,]~~
 - 3. The name and address of the transporter;~~[,]~~
 - 4. The quantity of cigarettes being transported; ~~and~~~~[, together with]~~
 - 5. The license number assigned to ~~the~~~~[such]~~ transporter by the department.

- (6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the ~~Kentucky~~ cigarette tax has not been paid. ~~The~~~~Such~~ license shall be secured on or before July 1 of each year. ~~and~~ Each licensee shall pay the sum of fifty dollars (\$50) for each ~~such~~ year, or portion thereof, for which ~~the~~~~such~~ license is secured.
- (7) (a) 1. Each distributor shall secure a license for the privilege of selling tobacco products in this state. Each license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each year, or portion thereof, for which the license is secured.
2. a. A resident wholesaler, nonresident wholesaler, or subjobber licensed under this section may also obtain and maintain a distributor's license at each place of business at no additional cost each year.
- b. An unclassified acquirer licensed under this section may also obtain and maintain a distributor's license for the privilege of selling tobacco products in this state. The license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of four hundred fifty dollars (\$450) for each year, or portion thereof, for which the license is secured.
3. The department may, upon application, grant a distributor's license to a person other than a retailer and who is not otherwise required to hold a distributor's license under this paragraph. If the department grants the license, the licensee shall pay the sum of five hundred dollars (\$500) for each year, or portion thereof, for which the license is secured, and the licensee shall be subject to the excise tax in the same manner and subject to the same requirements as a distributor required to be licensed under this paragraph.
- (b) The department may, upon application, grant a retail distributor's license to a retailer for the privilege of purchasing tobacco products from a distributor not licensed by the department. If the department grants the license, the licensee shall pay the sum of one hundred dollars (\$100) for each year, or portion thereof, for which the license is secured.
- (8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of ~~that~~~~such~~ person's business is so diversified as to justify ~~the~~~~such~~ requirement.
- (9) (a) The department may by administrative regulation require any person requesting a license or holding a license under this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of ~~the~~~~such~~ licensees, and to protect the revenues of the state.
- (b) Failure on the part of the applicant or licensee to:
1. Comply with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder; ~~or~~ ~~to~~
2. Permit an inspection of premises, machines, or vehicles by an authorized agent of the department at any reasonable time;
- shall be grounds for the denial or revocation of any license issued by the department, after due notice and a hearing by the department.
- (c) The commissioner may assign a time and place for the hearing and may appoint a conferee who shall conduct a hearing, receive evidence, and hear arguments.
- (d) The conferee shall thereupon file a report with the commissioner together with a recommendation as to the denial or revocation of the license.
- (e) From any denial or revocation made by the commissioner on the report, the licensee may prosecute an appeal to the Kentucky Claims Commission pursuant to KRS 49.220.
- (f) Any person whose license has been revoked for the willful violation of any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder shall not be entitled to any license provided for in this section, or have any interest in any license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of two (2) years after the revocation.

- (10) No license issued pursuant to this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.
- (11) Every manufacturer located or doing business in this state and the first person to import cigarettes into this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit to the department monthly reports of such shipments. All books, records, invoices, and documents required by this section shall be preserved in a form prescribed by the department for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.
- (12) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.
- (13) (a) Licensed distributors of tobacco products shall pay and report the **tobacco products** tax ~~levied by KRS 138.140(4)(a)~~ on or before the twentieth day of the calendar month following the month in which the possession or title of the tobacco products are transferred from the licensed distributor to retailers or consumers in this state, as the case may be.
- (b) Retailers who have applied for and been granted a retail distributor's license for the privilege of purchasing tobacco products from a person who is not a distributor licensed under KRS 138.195(7)(a) shall report and pay the **tobacco products** tax ~~levied by KRS 138.140(4)(c)2.~~ on or before the twentieth day of the calendar month following the month in which the products are acquired by the licensed retail distributors.
- (c) If the distributor or retail distributor timely reports and pays the tax due, the distributor or retail distributor may deduct an amount equal to one percent (1%) of the tax due.
- (d) The department shall promulgate administrative regulations setting forth the details of the reporting requirements.
- (14) A tax return shall be filed for each reporting period whether or not tax is due.
- (15) Any license issued by the department under this section shall not be construed to waive or condone any violation that occurred or may have occurred prior to the issuance of the license and shall not prevent subsequent proceedings against the licensee.
- (16) (a) The department may deny the issuance of a license under this section if:
 - 1. The applicant has made any material false statement on the application for the license; or
 - 2. The applicant has violated any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.754, or 248.756 or any administrative regulations promulgated thereunder.
- (b) If the department denies the applicant a license under this section, the department shall notify the applicant of the grounds for the denial, and the applicant may request a hearing and appeal the denial as provided in subsection (9) of this section.

➔Section 34. KRS 164.043 is amended to read as follows:

- (1) There is hereby created in the State Treasury a cancer research matching fund designated as the "cancer research institutions matching fund." The fund shall be administered by the Council for Postsecondary Education. For tax periods beginning on or after June 1, 2005, the one-cent (\$0.01) surtax collected under **subsection (1)(c) of Section 27 of this Act** ~~KRS 138.140(2)~~ shall be deposited in the fund and shall be made available for matching purposes to the following universities for cancer research:
 - (a) One-half (1/2) of the moneys deposited in the fund shall be made available to the University of Kentucky; and
 - (b) One-half (1/2) of the moneys deposited in the fund shall be made available to the University of Louisville.
- (2) All interest earned on moneys in the fund shall be credited to the fund.
- (3) Any moneys remaining in the fund at the end of the fiscal year shall lapse to the general fund.
- (4) To receive the funds, the universities shall provide dollar-for-dollar matching funds. The matching funds shall come from external sources to be eligible for the state match. External source contributions are those that originate outside the university and its affiliated corporations. The matching funds shall be newly generated to

be eligible for state match. Newly generated contributions are those received by the university after April 1, 2005.

- (5) Moneys transferred to the fund pursuant to subsection (1) of this section are hereby appropriated for purposes set forth in this section.
- (6) The following funds are not eligible for state match:
 - (a) Funds received from federal, state, and local government sources; and
 - (b) General fund and student-derived revenues.

➔Section 35. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

- (1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.
- (2) "Commissioner" means the commissioner of the Department of Revenue of the Commonwealth of Kentucky.
- (3) "Department" means the Department of Revenue.
- (4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.
- (5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130~~138.130(12)~~, broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.
- (6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.
- (7) "Sale" or "sell" means any transfer for consideration or gift.
- (8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.
- (9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.
- (10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.
- (11)
 - (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.
 - (b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.
- (12)
 - (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the

cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

- (b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

➔Section 36. KRS 139.010 is amended to read as follows:

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

- (1) *"Admissions" means the fees paid for:*

(a) *The right of entrance to a display, program, sporting event, music concert, performance, play, show, movie, exhibit, fair, or other entertainment or amusement event or venue; and*

(b) *The privilege of using facilities or participating in an event or activity, including but not limited to:*

1. *Bowling centers;*
2. *Skating rinks;*
3. *Health spas;*
4. *Swimming pools;*
5. *Tennis courts;*
6. *Weight training facilities;*
7. *Fitness and recreational sports centers; and*
8. *Golf courses, both public and private;*

regardless of whether the fee paid is per use or in any other form including but not limited to an initiation fee, monthly fee, membership fee, or combination thereof;

- (2) "Advertising and promotional direct mail" means direct mail the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this definition, "product" means tangible personal property, an item transferred electronically, or a service;

- ~~(3)~~~~(2)~~ "Business" includes any activity engaged in by any person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect;

- ~~(4)~~~~(3)~~ "Commonwealth" means the Commonwealth of Kentucky;

- ~~(5)~~~~(4)~~ "Department" means the Department of Revenue;

- ~~(6)~~~~(5)~~ (a) "Digital audio-visual works" means a series of related images which, when shown in succession, impart an impression of motion, with accompanying sounds, if any.

(b) "Digital audio-visual works" includes movies, motion pictures, musical videos, news and entertainment programs, and live events.

(c) "Digital audio-visual works" shall not include video greeting cards, video games, and electronic games;

- ~~(7)~~~~(6)~~ (a) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio works" includes ringtones, recorded or live songs, music, readings of books or other written materials, speeches, or other sound recordings.

(c) "Digital audio works" shall not include audio greeting cards sent by electronic mail;

- (8)(7) (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.
- (b) "Digital books" shall not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers, or other news or information products, chat rooms, or Web logs;
- (9)(8) (a) "Digital code" means a code which provides a purchaser with a right to obtain one (1) or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code, or book code.
- (b) "Digital code" shall not include a code that represents:
1. A stored monetary value that is deducted from a total as it is used by the purchaser; or
 2. A redeemable card, gift card, or gift certificate that entitles the holder to select specific types of digital property;
- (10)(9) (a) "Digital property" means any of the following which is transferred electronically:
1. Digital audio works;
 2. Digital books;
 3. Finished artwork;
 4. Digital photographs;
 5. Periodicals;
 6. Newspapers;
 7. Magazines;
 8. Video greeting cards;
 9. Audio greeting cards;
 10. Video games;
 11. Electronic games; or
 12. Any digital code related to this property.
- (b) "Digital property" shall not include digital audio-visual works or satellite radio programming;
- (11)(10) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address;
- (12) ***"Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property or digital property according to the terms of the contract if:***
- (a) ***The service contract agreement is sold or purchased on or after July 1, 2018; and***
 - (b) ***The tangible personal property or digital property for which the service contract agreement is provided is subject to tax under this chapter or under KRS 138.460;***
- (13)(11) (a) "Finished artwork" means final art that is used for actual reproduction by photomechanical or other processes or for display purposes.
- (b) "Finished artwork" includes:
1. Assemblies;

2. Charts;
3. Designs;
4. Drawings;
5. Graphs;
6. Illustrative materials;
7. Lettering;
8. Mechanicals;
9. Paintings; and
10. Paste-ups;

~~(14)~~~~(12)~~ (a) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

1. The retailer's cost of the tangible personal property or digital property sold;
2. The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;
3. Charges by the retailer for any services necessary to complete the sale;
4. Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing;~~and~~
5. Any amount for which credit is given to the purchaser by the retailer, other than credit for tangible personal property or digital property traded when the tangible personal property or digital property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale; *and*
6. *The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold.*

(b) "Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:

1. The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;
2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
3. The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and
4. One (1) of the following criteria is met:
 - a. The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;
 - b. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or
 - c. The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.

(c) "Gross receipts" and "sales price" shall not include:

1. Discounts, including cash, term, or coupons that are not reimbursed by a third party and that are allowed by a retailer and taken by a purchaser on a sale;
 2. Interest, financing, and carrying charges from credit extended on the sale of tangible personal property, digital property, or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; **or**
 3. Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; ~~or~~
 4. ~~The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold, provided the amount charged is separately stated on the invoice, bill of sale, or similar document given to the purchaser.~~
- (d) As used in this subsection, "third party" means a person other than the purchaser;
- ~~(15)~~~~(13)~~ "In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;
- ~~(16)~~~~(14)~~ (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to:
1. Purchase the property; or
 2. Extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).
- (b) "Lease or rental" shall not include:
1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
 2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or
 3. Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.
- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- ~~(17)~~~~(15)~~ (a) "Machinery for new and expanded industry" means machinery:
1. Used directly in a manufacturing or processing production process;
 2. Which is incorporated for the first time into a plant facility established in this state; and
 3. Which does not replace machinery in the plant facility unless that machinery purchased to replace existing machinery:
 - a. Increases the consumption of recycled materials at the plant facility by not less than ten percent (10%);
 - b. Performs different functions;
 - c. Is used to manufacture a different product; or
 - d. Has a greater productive capacity, as measured in units of production, than the machinery being replaced.
- (b) The term "machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or vendor as a condition of sale or as a condition of warranty.

- (c) The term "processing production" shall include the processing and packaging of raw materials, in-process materials, and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone, and natural gas;
- ~~(18)(16)~~ "Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery. The manufacturing or processing production process commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the product being manufactured is packaged and ready for sale;
- (19) *"Marketplace" means any physical or electronic means through which one (1) or more retailers may advertise and sell or lease tangible personal property or digital property, such as a catalog, Internet Web site, or television or radio broadcast, regardless of whether the tangible personal property, digital property, or retailer is physically present in this state;*
- (20) *"Marketplace facilitator" means a person that facilitates the retail sale of tangible personal property or digital property by listing or advertising the tangible personal property for sale at retail and either directly or indirectly through agreements or arrangements with third parties, collects the payment from the purchaser, and transmits the payment to the person selling the property;*
- (21) *"Marketplace retailer" means a person that has an agreement with a marketplace facilitator and makes retail sales of tangible personal property or digital property through a marketplace;*
- ~~(22)(17)~~ (a) "Occasional sale" includes:
1. A sale of tangible personal property or digital property not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occasional sale; or
 2. Any transfer of all or substantially all the tangible personal property or digital property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.
- (b) For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the tangible personal property or digital property of such corporation or other entity;
- ~~(23)(18)~~ (a) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing.
- (b) "Other direct mail" includes but is not limited to:
1. Transactional direct mail that contains personal information specific to the addressee, including but not limited to invoices, bills, statements of account, and payroll advices;
 2. Any legally required mailings, including but not limited to privacy notices, tax reports, and stockholder reports; and
 3. Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including but not limited to newsletters and informational pieces.
- (c) "Other direct mail" does not include the development of billing information or the provision of any data processing service that is more than incidental to the production of printed material;
- ~~(24)(19)~~ "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;
- ~~(25)(20)~~ "Permanent," as the term applies to digital property, means perpetual or for an indefinite or unspecified length of time;
- ~~(26)(21)~~ "Plant facility" means a single location that is exclusively dedicated to manufacturing or processing production activities. For purposes of this section, a location shall be deemed to be exclusively dedicated to

manufacturing activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment;

(27)~~((22))~~ "Prewritten computer software" means:

- (a) Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;
- (b) Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser; or
- (c) Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser. When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made. In the case of modified or enhanced prewritten software, if there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement, then the modification or enhancement shall not constitute prewritten computer software;

(28)~~((23))~~ (a) "Purchase" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:

- 1. Tangible personal property;
- 2. *An extended warranty service*; or
- 3. Digital property transferred electronically;

for a consideration.~~and~~

(b) "**Purchase**" includes:

- 1.~~((a))~~ When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;
- 2.~~((b))~~ A transaction whereby the possession of tangible personal property or digital property is transferred but the seller retains the title as security for the payment of the price; and
- 3.~~((c))~~ A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;

(29)~~((24))~~ "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products;

(30)~~((25))~~ "Recycling purposes" means those activities undertaken in which materials that would otherwise become solid waste are collected, separated, or processed in order to be reused or returned to use in the form of raw materials or products;

(31) "**Referrer**" means a person that:

- (a) *Contracts with a retailer or retailer's representative to advertise or list tangible personal property or digital property for sale or lease;*
- (b) *Makes referrals by connecting a person to the retailer or the retailer's representative, but not acting as a marketplace facilitator; and*
- (c) *Received in the prior calendar year or the current calendar year, in the aggregate, at least ten thousand dollars (\$10,000) in consideration from remote retailers, marketplace retailers, or representatives of remote retailers or marketplace retailers for referrals on retail sales to purchasers in this state;*

(32) (a) "**Remote retailer**" means a retailer with no physical presence in this state.

(b) *"Remote retailer" does not include a marketplace facilitator or a referrer;*

~~(33)(26)~~ (a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment.

(b) "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools;

~~(34)(27)~~ (a) "Retailer" means:

1. Every person engaged in the business of making retail sales of tangible personal property, digital property, or furnishing any services included in KRS 139.200;
2. Every person engaged in the business of making sales at auction of tangible personal property or digital property owned by the person or others for storage, use or other consumption, except as provided in paragraph (c) of this subsection;
3. Every person making more than two (2) retail sales of tangible personal property or digital property during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
4. Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.

(b) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property or digital property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

(c) 1. Any person making sales at a charitable auction for a qualifying entity shall not be a retailer for purposes of the sales made at the charitable auction if:

- a. The qualifying entity, not the person making sales at the auction, is sponsoring the auction;
- b. The purchaser of tangible personal property at the auction directly pays the qualifying entity sponsoring the auction for the property and not the person making the sales at the auction; and
- c. The qualifying entity, not the person making sales at the auction, is responsible for the collection, control, and disbursement of the auction proceeds.

2. If the conditions set forth in subparagraph 1. of this paragraph are met, the qualifying entity sponsoring the auction shall be the retailer for purposes of the sales made at the charitable auction.

3. For purposes of this paragraph, "qualifying entity" means a resident:

- a. Church;
- b. School;
- c. Civic club; or
- d. Any other nonprofit charitable, religious, or educational organization;

~~(35)(28)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent;

~~(36)(29)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(b) "Ringtones" shall not include ringback tones or other digital files that are not stored on the purchaser's communications device;

~~(37)(30)~~ (a) "Sale" means:

- I. The furnishing of any services included in KRS 139.200;

2. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:

- a. Tangible personal property; or
- b. Digital property transferred electronically;

for a consideration. ~~[-, and]~~

(b) **"Sale"** includes, **but is not limited to:**

1. The producing, fabricating, processing, printing, or imprinting of tangible personal property or digital property for a consideration for purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;
2. A transaction whereby the possession of tangible personal property or digital property is transferred, but the seller retains the title as security for the payment of the price; and
3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the purchaser.

(c) ~~(b)~~ This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;

(38) ~~(31)~~ "Seller" includes every person engaged in the business of selling tangible personal property, digital property, or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and every person engaged in making sales for resale;

(39) ~~(32)~~ (a) "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property or digital property purchased from a retailer.

- (b) "Storage" does not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state;

(40) ~~(33)~~ "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses and includes natural, artificial, and mixed gas, electricity, water, steam, and prewritten computer software;

(41) ~~(34)~~ "Taxpayer" means any person liable for tax under this chapter;

(42) ~~(35)~~ "Transferred electronically" means accessed or obtained by the purchaser by means other than tangible storage media; and

(43) ~~(36)~~ (a) "Use" includes the exercise of:

1. Any right or power over tangible personal property or digital property incident to the ownership of that property, or by any transaction in which possession is given, or by any transaction involving digital property where the right of access is granted; **or**
2. **Any right or power to benefit from extended warranty services.**

- (b) "Use" does not include the keeping, retaining, or exercising any right or power over tangible personal property or digital property for the purpose of:

1. Selling tangible personal property or digital property in the regular course of business; or
2. Subsequently transporting tangible personal property outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

➔Section 37. KRS 139.200 is amended to read as follows:

A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts derived from:

(1) Retail sales of:

- (a) Tangible personal property, regardless of the method of delivery, made within this Commonwealth; and
- (b) Digital property regardless of whether:
 - 1. The purchaser has the right to permanently use the property;
 - 2. The purchaser's right to access or retain the property is not permanent; or
 - 3. The purchaser's right of use is conditioned upon continued payment; and

(2) The furnishing of the following:

- (a) The rental of any room or rooms, lodgings, ***campsites***, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, ***campgrounds, recreational vehicle parks***, or any other place in which rooms, lodgings, ***campsites***, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, ***campsites***, or accommodations supplied for a continuous period of thirty (30) days or more to a person;
- (b) Sewer services;
- (c) The sale of admissions except:
 - 1. ***Admissions to racetracks***~~[-those]~~ taxed under KRS 138.480;
 - 2. ***Admissions to historical sites exempt under KRS 139.482; and***
 - 3. ***A portion of the admissions to county fairs exempt under KRS 139.470;***
- (d) Prepaid calling service and prepaid wireless calling service;
- (e) Intrastate, interstate, and international communications services as defined in KRS 139.195, except the furnishing of pay telephone service as defined in KRS 139.195;~~[-and]~~
- (f) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:
 - 1. For natural gas that is classified as residential use as provided in KRS 139.470(8); or
 - 2. To a seller or reseller of natural gas;
- (g) ***Landscaping services, including but not limited to:***
 - 1. ***Lawn care and maintenance services;***
 - 2. ***Tree trimming, pruning, or removal services;***
 - 3. ***Landscape design and installation services;***
 - 4. ***Landscape care and maintenance services; and***
 - 5. ***Snow plowing or removal services;***
- (h) ***Janitorial services, including but not limited to residential and commercial cleaning services, and carpet, upholstery, and window cleaning services;***
- (i) ***Small animal veterinary services, excluding veterinary services for equine, cattle, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;***
- (j) ***Pet care services, including but not limited to grooming and boarding services, pet sitting services, and pet obedience training services;***
- (k) ***Industrial laundry services, including but not limited to industrial uniform supply services, protective apparel supply services, and industrial mat and rug supply services;***
- (l) ***Non-coin-operated laundry and dry cleaning services;***
- (m) ***Linen supply services, including but not limited to table and bed linen supply services and nonindustrial uniform supply services;***
- (n) ***Indoor skin tanning services, including but not limited to tanning booth or tanning bed services and spray tanning services;***

- (o) *Non-medical diet and weight reducing services;*
- (p) *Limousine services, if a driver is provided; and*
- (q) *Extended warranty services.*

➔Section 38. KRS 139.220 is amended to read as follows:

It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax levied by KRS 139.200 or required to be collected under KRS 139.340 or any part thereof will be assumed or absorbed by the retailer or that the tax will not be added to the selling price of the tangible personal property, ~~or~~ digital property, **or services** sold or that if added the tax or any part thereof will be refunded.

➔Section 39. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property, ~~and~~ digital property, **and services** sold by any person for delivery or access in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale **of**:

- (1) ***Tangible personal property or digital property*** unless the person takes from the purchaser a certificate to the effect that the property is either:
 - (a) ~~(1)~~ Purchased for resale according to the provisions of KRS 139.270;
 - (b) ~~(2)~~ Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or
 - (c) ~~(3)~~ Purchased according to administrative regulations promulgated by the department governing a direct pay authorization; **and**
- (2) ***A service unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270.***

➔Section 40. KRS 139.310 is amended to read as follows:

- (1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property, ~~and~~ digital property; **and extended warranty services** purchased for storage, use, or other consumption in this state at the rate of six percent (6%) of the sales price ~~of the property~~.
- (2) The excise tax applies to the purchase of digital property regardless of whether:
 - (a) The purchaser has the right to permanently use the goods;
 - (b) The purchaser's right to access or retain the digital property is not permanent; or
 - (c) The purchaser's right of use is conditioned upon continued payment.

➔Section 41. KRS 139.330 is amended to read as follows:

Every person storing, using or otherwise consuming in this state tangible personal property, ~~or~~ digital property, **or an extended warranty service** purchased from a retailer is liable for the use tax levied under KRS 139.310. His liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the department, under such rules and regulations as it may prescribe, to collect the tax and who is, for the purpose of this chapter relating to the use tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to KRS 139.340 is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

➔Section 42. KRS 139.340 is amended to read as follows:

- (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth.
- (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section includes any of the following:

- (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, representative, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;
- (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property,~~[-or]~~ digital property, ***or an extended warranty service***. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
- (c) Any retailer soliciting orders for tangible personal property,~~[-or]~~ digital property, ***or an extended warranty service*** from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
- (d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;
- (e) Any retailer soliciting orders for tangible personal property,~~[-or]~~ digital property, ***or an extended warranty service*** from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent or representative operating in this state under the authority of the retailer to repair or service tangible personal property or digital property sold by the retailer;~~[-or]~~
- (f) Any retailer located outside Kentucky that uses a representative in Kentucky, either full-time or part-time, if the representative performs any activities that help establish or maintain a marketplace for the retailer, including receiving or exchanging returned merchandise; ***or***
- (g) ***Any remote retailer selling tangible personal property or digital property delivered or transferred electronically to a purchaser in this state if:***
 - 1. ***The remote retailer sold tangible personal property or digital property that was delivered or transferred electronically to a purchaser in this state in two hundred (200) or more separate transactions in the previous calendar year or the current calendar year; or***
 - 2. ***The remote retailer's gross receipts derived from the sale of tangible personal property or digital property delivered or transferred electronically to a purchaser in this state in the previous calendar year or current calendar year exceeds one hundred thousand dollars (\$100,000).***

➔Section 43. KRS 139.390 is amended to read as follows:

Every retailer selling tangible personal property,~~[-or]~~ digital property, ***or an extended warranty service*** for storage, use or other consumption in this state shall register with the department and give:

- (1) The name and address of all agents operating in this state;
- (2) The location of all distribution or sales houses or offices or other places of business in this state;
- (3) Such other information as the department may require.

➔Section 44. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;
- (3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to

the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery":
 - (a) Means machinery used exclusively and directly in the occupation of:
 1. Tilling the soil for the production of crops as a business;
 2. Raising and feeding livestock or poultry for sale; or
 3. Producing milk for sale;
 - (b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and
 - (c) Does not include:
 1. Automobiles;
 2. Trucks;
 3. Trailers, except combine header trailers; or
 4. Truck-trailer combinations;
- ~~(12) [Property which has been certified as a pollution control facility as defined in KRS 224.1-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;~~
- ~~(13)]Tombstones and other memorial grave markers;~~
- ~~(13)~~~~(14)~~ On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- ~~(14)~~~~(15)~~ On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the

construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

- ~~(15)~~~~(16)~~ Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
 - (a) Operate farm machinery as defined in subsection (11) of this section;
 - (b) Operate on-farm grain or soybean drying facilities as defined in subsection ~~(13)~~~~(14)~~ of this section;
 - (c) Operate on-farm poultry or livestock facilities defined in subsection ~~(14)~~~~(15)~~ of this section;
 - (d) Operate on-farm ratite facilities defined in subsection ~~(23)~~~~(24)~~ of this section;
 - (e) Operate on-farm llama or alpaca facilities as defined in subsection ~~(25)~~~~(26)~~ of this section; or
 - (f) Operate on-farm dairy facilities;
- ~~(16)~~~~(17)~~ Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- ~~(17)~~~~(18)~~ Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- ~~(18)~~~~(19)~~ Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- ~~(19)~~~~(20)~~ Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- ~~(20)~~~~(21)~~
 - (a)
 - 1. Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures as part of an approved supplemental project, as defined by KRS 154.26-010; and
 - 2. Materials, supplies, and repair or replacement parts purchased for use in the operation and maintenance of a blast furnace and related carbon steel-making operations as part of an approved supplemental project, as defined by KRS 154.26-010.
 - (b) The exemptions provided in this subsection shall be effective for sales made:
 - 1. On and after July 1, 2018; and
 - 2. During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;
- ~~(21)~~~~(22)~~ Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- ~~(22)~~~~(23)~~ Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- ~~(23)~~~~(24)~~ Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
 - (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment,

machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

~~(24)~~~~(25)~~ Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;

~~(25)~~~~(26)~~ Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

- (a) Feed and feed additives;
- (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
- (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

~~(26)~~~~(27)~~ Baling twine and baling wire for the baling of hay and straw;

~~(27)~~~~(28)~~ Water sold to a person regularly engaged in the business of farming and used in the:

- (a) Production of crops;
- (b) Production of milk for sale; or
- (c) Raising and feeding of:
 - 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
 - 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;

~~(28)~~~~(29)~~ Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

- (a) Feed and feed additives;
- (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
- (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

~~(29)~~~~(30)~~ Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

- (a) Feed and feed additives;
- (b) Water;
- (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
- (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

~~(30)~~~~(31)~~ Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:

- (a) Feed and feed additives;
- (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

~~(31)~~~~(32)~~ (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

- (b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation; and
- (c) For the purposes of this subsection, "repair or replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair or replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes; and

~~(32)~~~~(33)~~ Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy.

➔Section 45. KRS 139.510 is amended to read as follows:

- (1) The tax levied by KRS 139.310 shall not apply with respect to the storage, use, or other consumption of tangible personal property,~~or~~ digital property, **or extended warranty services** in this state upon which a tax substantially identical to the tax levied under KRS 139.200 (not including any special excise taxes such as are imposed on alcoholic beverages, cigarettes, and the like) equal to or greater than the amount of tax imposed by KRS 139.310 has been legally paid in another state. Proof of payment of such tax shall be according to rules and regulations of the department. If the amount of tax paid in another state is not equal to or greater than the amount of tax imposed by KRS 139.310, then the taxpayer shall pay to the department an amount sufficient to make the tax paid in the other state and in this state equal to the amount imposed by KRS 139.310. No credit shall be given under this section for sales taxes paid in another state if that state does not grant credit for sales taxes paid in this state.
- (2) To prevent actual multistate taxation of a communications service subject to taxation under this chapter, any provider or purchaser, upon proof that the provider or purchaser has paid a tax in another state on the same communications services, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of the tax legally paid in the other state.

➔Section 46. KRS 139.538 is amended to read as follows:

- (1) It is the intent and purpose of the General Assembly in enacting this section and 139.990(5), to encourage the motion picture industry to choose locations in the Commonwealth for the filming or producing of motion pictures, by providing an exemption from sales and use taxes. The exemption is accomplished by granting a refundable credit for sales and use taxes paid on purchases made in connection with the filming or producing of motion pictures in Kentucky.
- (2)
 - (a) ***On or after the effective date of this Act, and until July 1, 2022, the department shall not accept any new applications as provided by subsection (4) of this section.***
 - (b) ***On or before June 1, 2019, the department shall provide the following information to the Interim Joint Committee on Appropriations and Revenue for all fiscal years data is available:***
 - 1. ***The name of the motion picture company;***

2. *The filming location or locations in this state;*
3. *A brief description of the production;*
4. *The amount of sales and use tax refunded; and*
5. *The total amount of all sales and use tax refunded to motion picture production companies during each fiscal year reported.*

(3) As used in this section and KRS 139.990(5):

- (a) "Financial institution" means any bank or savings and loan institution in the Commonwealth which carries FDIC or FSLIC insurance;
- (b) "Motion picture production company" means a company engaged in the business of producing motion pictures intended for a theatrical release or for exhibition on national television either by a network or for national syndication, or television programs which will serve as a pilot for or a segment of a nationally televised dramatic series, either by a network or for national syndication; and
- (c) "Secretary" means the secretary of the Kentucky Finance and Administration Cabinet.

~~(4)(3)~~ Any motion picture production company that intends to film all or parts of a motion picture in the Commonwealth and desires to receive the credit provided for in subsection ~~(7)(6)~~ of this section shall, prior to the commencement of filming:

- (a) Provide the department with the address of a Kentucky location at which records of expenditures qualifying for the tax credit will be maintained, and with the name of the individual maintaining these records; and
- (b) File an application for the tax credit within sixty (60) days after the completion of filming or production in Kentucky. The application shall include a final expenditure report providing documentation for expenditures in accordance with administrative regulations promulgated by the department.

~~(5)(4)~~ To qualify as a basis for the financial incentive, expenditures must be made by check drawn upon any Kentucky financial institution.

~~(6)(5)~~ The twelve (12) month period during which expenditures may qualify for the tax credit shall begin on the date of the earliest expenditure reported.

~~(7)(6)~~ Any motion picture production company which films or produces one (1) or more motion pictures in the Commonwealth during any twelve (12) month period shall, upon making application therefor and meeting the other requirements prescribed in this section, be entitled to a refundable tax credit equal to the amount of Kentucky sales and use tax paid for purchases made in connection with the filming or production of a motion picture.

~~(8)(7)~~ The department shall, within sixty (60) days following the receipt of an application for a credit for sales and use tax paid, calculate the total expenditures of the motion picture production company for which there is documentation for funds expended in the Commonwealth, calculate the amount of credit to which the applicant is entitled, and certify the amount of the credit to the secretary. In the case of an audit, as provided for in subsection ~~(13)(12)~~ of this section, the department shall certify the amount of the credit due to the secretary within one hundred eighty (180) days following the receipt of the motion picture production company's application.

~~(9)(8)~~ Upon receipt of the certification of the amount of credit from the department, the secretary shall cause the refund of sales taxes paid to be remitted to the motion picture production company. For purposes of payment and funding thereof, the credit shall be paid in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation but shall be deducted from tax receipts for the current fiscal year.

~~(10)(9)~~ The sales and use taxes paid by the motion picture production company for which a refundable tax credit is granted shall be deemed not to have been legally paid into the State Treasury, and the refund of the credit shall not be in violation of Section 59 of the Kentucky Constitution.

~~(11)(10)~~ Any tax credit or part thereof paid to a motion picture production company as a result of error by the department shall be repaid by such company to the secretary.

- (12)~~(11)~~ Any tax credit or part thereof paid to a motion picture production company as a result of error or fraudulent statements made by the motion picture production company shall be repaid by such company to the secretary, together with interest, at the tax interest rate provided for in KRS 131.010(6).
- (13)~~(12)~~ The department may require that reported expenditures and the application for the tax credit from a motion picture production company be subjected to an audit by the department auditors to verify expenditures.
- (14)~~(13)~~ For companies in the business of producing films or television shows other than those which would qualify them for the credit under the definition of "motion picture production company," the department may require separate accounting records for the reporting of expenditures made in connection with the application for a refundable tax credit.
- (15)~~(14)~~ The department may promulgate appropriate administrative regulations to carry out the intent and purposes of this section.

➔Section 47. KRS 139.550 is amended to read as follows:

- (1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the department in a form the department may prescribe.
- (2) For purposes of the sales tax, a return shall be filed by every retailer or seller. For purposes of the use tax, a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property,~~or~~ digital property, *or an extended warranty service*, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.
- (3) Returns shall be signed by the person required to file the return or by a duly authorized agent but need not be verified by oath.
- (4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under rules as the department shall provide for the efficient collection of the sales tax on sales.
- (5) The return shall show the amount of the taxes for the period covered by the return and other information the department deems necessary for the proper administration of this chapter.

➔Section 48. KRS 139.700 is amended to read as follows:

The department may, in its discretion, upon application authorize the collection of the tax imposed herein by any retailer not engaged in business within this state who, to the satisfaction of the department furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued a permit to collect such tax in such manner, and subject to such regulation and agreements as the department shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property,~~or~~ digital property, *or extended warranty services* sold to his knowledge for use within this state, in the same manner and subject to the same requirements as a retailer engaged in business within this state.

➔Section 49. KRS 139.720 is amended to read as follows:

- (1) Every seller, every retailer, and every person storing, using and otherwise consuming in this state tangible personal property,~~or~~ digital property, *or an extended warranty service* purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the department may require.
- (2) Every such seller, retailer, or person who files the returns required under this chapter shall keep such records for not less than four (4) years from the making of such records unless the department in writing sooner authorizes their destruction.

➔Section 50. KRS 139.730 is amended to read as follows:

In the administration of the sales and use tax, the department may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property,~~or~~ digital property, *or an extended warranty service*, the storage, use, or other consumption of which is subject to the tax. The report shall be filed at the time specified by the department and shall contain such information as the department may require.

➔Section 51. KRS 139.740 is amended to read as follows:

- (1) No judgment shall be entered and no garnishment or attachment shall be permitted by any court in this Commonwealth in an action for the collection of a debt arising out of the sale of tangible personal property, ~~or~~ digital property, **or extended warranty services** unless an affidavit containing a certificate of service is executed by the plaintiff to the effect that all use taxes due the Commonwealth have been paid.
- (2) Prior to the filing of the affidavit, required under subsection (1) of this section, the plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail, serve upon the department a copy of the affidavit. Within fifteen (15) days from the date of the filing of the affidavit the department may file a counteraffidavit. In such event no judgment shall be entered or garnishment or attachment issued until proof has been taken concerning the matters at issue in the affidavit and counteraffidavit.
- (3) In the event the use tax levied by this chapter is found to be due and unpaid the plaintiff may elect to pay the tax to the department, and the amount of the tax paid by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff does not elect to pay the use tax found to be due and unpaid, judgment for the amount of the tax shall be awarded to the Commonwealth.
- (4) Any judgment awarded to the Commonwealth under this section shall constitute a prior claim to any judgment obtained by the plaintiff.
- (5) Tax as defined herein includes interest accrued thereon at the tax interest rate as defined in KRS 131.010(6).
- (6) The provisions of this section shall not apply to a plaintiff holding a retail permit issued pursuant to this chapter.

➔SECTION 52. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The definitions in this section are the same as the definitions appearing in KRS 141.010 prior to its repeal and reenactment in Section 53 of this Act. For taxable years beginning prior to January 1, 2018, as used in this chapter, unless the context requires otherwise:

- (1) *"Commissioner" means the commissioner of the department;*
- (2) *"Department" means the Department of Revenue;*
- (3) *"Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2015, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2015, that would otherwise terminate, and as modified by KRS 141.0101;*
- (4) *"Dependent" means those persons defined as dependents in the Internal Revenue Code;*
- (5) *"Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;*
- (6) *"Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;*
- (7) *"Individual" means a natural person;*
- (8) *"Modified gross income" means the greater of:*
 - (a) *Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:*
 1. *Include interest income derived from obligations of sister states and political subdivisions thereof; and*
 2. *Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or*
 - (b) *Adjusted gross income as defined in subsection (10) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);*
- (9) *"Gross income," in the case of taxpayers other than corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code;*
- (10) *"Adjusted gross income," in the case of taxpayers other than corporations, means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:*

- (a) *Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;*
- (b) *Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;*
- (c) *Include interest income derived from obligations of sister states and political subdivisions thereof;*
- (d) *Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;*
- (e) *Exclude Social Security and railroad retirement benefits subject to federal income tax;*
- (f) *Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;*
- (g) *Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;*
- (h) *Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;*
- (i)
 1. *For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans. The "applicable amount" shall be:*
 - a. *Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;*
 - b. *Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;*
 - c. *Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and*
 - d. *One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.*
 2. *For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.*
 3. *As used in this paragraph:*
 - a. *"Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;*
 - b. *"Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and*
 - c. *"Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;*

- (j)
 - 1.
 - a. *Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and*
 - b. *Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.*
 - 2. *The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;*
 - (k) *Exclude, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents, or for any person authorized to be provided excludable coverage by the taxpayer pursuant to the federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, or the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;*
 - (l) *Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;*
 - (m) *Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;*
 - (n) *Exclude any capital gains income attributable to property taken by eminent domain;*
 - (o) *Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;*
 - (p) *Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;*
 - (q) *Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;*
 - (r) *Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;*
 - (s) *Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;*
 - (t) *Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries; and*
 - (u) *For taxable years beginning on or after January 1, 2010, exclude all military pay received by active duty members of the Armed Forces of the United States, members of reserve components of the Armed Forces of the United States, and members of the National Guard, including compensation for state active duty as described in KRS 38.205;*
- (11) *"Net income," in the case of taxpayers other than corporations, means adjusted gross income as defined in subsection (10) of this section, minus:*
 - (a) *The deduction allowed by KRS 141.0202;*
 - (b) *Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;*

- (c) *For taxable years beginning on or after January 1, 2010, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and*
 - (d) *1. All the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except:*
 - a. Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;*
 - b. Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);*
 - c. The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof;*
 - d. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;*
 - e. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;*
 - f. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under this chapter;*
 - g. The itemized deduction limitation established in 26 U.S.C. sec. 68 shall be determined using the applicable amount from 26 U.S.C. sec. 68 as it existed on December 31, 2006; and*
 - h. A taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63 and as modified by this section; and*
 - 2. Nothing in this chapter shall be construed to permit the same item to be deducted more than once;*
- (12) *"Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:*
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;*
 - (b) Exclude all dividend income received after December 31, 1969;*
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;*
 - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;*
 - (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;*

- (f) *Include the amount calculated under KRS 141.205;*
 - (g) *Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;*
 - (h) *Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);*
 - (i) *Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;*
 - (j) *Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;*
 - (k) *Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;*
 - (l) *Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;*
 - (m) *For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and*
 - (n) *Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;*
- (13) *"Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus:*
- (a) *The deduction allowed by KRS 141.0202;*
 - (b) *Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;*
 - (c) *For taxable years beginning on or after January 1, 2010, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and*
 - (d) *All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except:*
 - 1. *Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;*
 - 2. *The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;*
 - 3. *The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;*
 - 4. *Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;*
 - 5. *Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);*
 - 6. *Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except*

nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

7. *Any deduction prohibited by KRS 141.205;*
 8. *Any dividends-paid deduction of any captive real estate investment trust; and*
 9. *For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;*
- (14) (a) *"Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;*
 - (b) *"Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under Section 59 of this Act. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;*
 - (c) *"Taxable net income," in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and*
 - (d) *"Taxable net income," in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;*
- (15) *"Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;*
 - (16) *"Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;*
 - (17) *"Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;*
 - (18) *"Nonresident" means any individual not a resident of this state;*
 - (19) *"Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;*
 - (20) *"Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;*
 - (21) *"Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero (0);*
 - (22) *"Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;*
 - (23) *"Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;*
 - (24) (a) *For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and*
 - (b) *For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:*

1. *"Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;*
2. *S corporations as defined in Section 1361(a) of the Internal Revenue Code;*
3. *A foreign limited liability company as defined in KRS 275.015;*
4. *A limited liability company as defined in KRS 275.015;*
5. *A professional limited liability company as defined in KRS 275.015;*
6. *A foreign limited partnership as defined in KRS 362.2-102(9);*
7. *A limited partnership as defined in KRS 362.2-102(14);*
8. *A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or (8);*
9. *A real estate investment trust as defined in Section 856 of the Internal Revenue Code;*
10. *A regulated investment company as defined in Section 851 of the Internal Revenue Code;*
11. *A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;*
12. *A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and*
13. *Other similar entities created with limited liability for their partners, members, or shareholders.*

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

(25) *"Doing business in this state" includes but is not limited to:*

- (a) *Being organized under the laws of this state;*
- (b) *Having a commercial domicile in this state;*
- (c) *Owning or leasing property in this state;*
- (d) *Having one (1) or more individuals performing services in this state;*
- (e) *Maintaining an interest in a pass-through entity doing business in this state;*
- (f) *Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or*
- (g) *Directing activities at Kentucky customers for the purpose of selling them goods or services.*

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

- (26) *"Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;*
- (27) *"S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code;*
- (28) *"Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity; and*
- (29) *"Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:*

- (a) 1. *The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or*
- 2. *The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission; and*
- (b) 1. *The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:*
 - a. *Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or*
 - b. *Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.*

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation;
- 2. *For the purposes of this paragraph:*
 - a. *"Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to the provisions of KRS 141.200; and*
 - b. *"Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and*
- (c) *The real estate investment trust is not owned by another real estate investment trust.*

➔SECTION 53. KRS 141.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter, for taxable years beginning on or after January 1, 2018:

- (1) *"Adjusted gross income," in the case of taxpayers other than corporations, means the amount calculated in Section 55 of this Act;*
- (2) *"Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:*
 - (a) 1. *The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or*
 - 2. *The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission;*
 - (b) 1. *The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:*
 - a. *Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or*
 - b. *Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.*

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation; and
 - 2. *For the purposes of this paragraph:*
 - a. *"Corporation" means a corporation taxable under Section 58 of this Act, and includes an affiliated group as defined in Section 79 of this Act, that is required to file a consolidated return pursuant to the provisions of Section 79 of this Act; and*
 - b. *"Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive*

ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and

- (c) *The real estate investment trust is not owned by another real estate investment trust;*
 - (3) *"Commissioner" means the commissioner of the department;*
 - (4) *"Corporation" has the same meaning as in Section 7701(a)(3) of the Internal Revenue Code;*
 - (5) *"Department" means the Department of Revenue;*
 - (6) *"Dependent" means those persons defined as dependents in the Internal Revenue Code;*
 - (7) *"Doing business in this state" includes but is not limited to:*
 - (a) *Being organized under the laws of this state;*
 - (b) *Having a commercial domicile in this state;*
 - (c) *Owning or leasing property in this state;*
 - (d) *Having one (1) or more individuals performing services in this state;*
 - (e) *Maintaining an interest in a pass-through entity doing business in this state;*
 - (f) *Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or*
 - (g) *Directing activities at Kentucky customers for the purpose of selling them goods or services.*
- Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;*
- (8) *"Employee" has the same meaning as in Section 3401(c) of the Internal Revenue Code;*
 - (9) *"Employer" has the same meaning as in Section 3401(d) of the Internal Revenue Code;*
 - (10) *"Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue Code;*
 - (11) *"Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal Revenue Code;*
 - (12) *"Gross income":*
 - (a) *In the case of taxpayers other than corporations, has the same meaning as in Section 61 of the Internal Revenue Code; and*
 - (b) *In the case of corporations, means the amount calculated in Section 56 of this Act;*
 - (13) *"Individual" means a natural person;*
 - (14) *"Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2017, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2017, that would otherwise terminate;*
 - (15) *"Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity;*
 - (16) *"Modified gross income" means the greater of:*
 - (a) *Adjusted gross income as defined in 26 U.S.C. sec. 62, including any amendments in effect on December 31 of the taxable year, and adjusted as follows:*
 - 1. *Include interest income derived from obligations of sister states and political subdivisions thereof; and*
 - 2. *Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or*
 - (b) *Adjusted gross income as defined in subsection (1) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);*

- (17) *"Net income":*
- (a) *In the case of taxpayers other than corporations, means the amount calculated in Section 55 of this Act; and*
 - (b) *In the case of corporations, means the amount calculated in Section 56 of this Act;*
- (18) *"Nonresident" means any individual not a resident of this state;*
- (19) *"Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under Section 83 of this Act, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;*
- (20) *"Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;*
- (21) *"Payroll period" has the same meaning as in Section 3401(b) of the Internal Revenue Code;*
- (22) *"Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code;*
- (23) *"Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;*
- (24) *"S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue Code;*
- (25) *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;*
- (26) *"Taxable net income":*
- (a) *In the case of corporations that are taxable in this state, means "net income" as defined in subsection (17) of this section;*
 - (b) *In the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (17) of this section and as allocated and apportioned under Section 60 of this Act;*
 - (c) *For homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (14) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and*
 - (d) *For a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;*
- (27) *"Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under administrative regulations prescribed by the commissioner, "taxable year" means the period for which the return is made; and*
- (28) *"Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.*

➔SECTION 54. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *All deductions allowed by this chapter shall be limited to amounts directly or indirectly allocable to income subject to taxation under the provisions of this chapter.*
- (b) *Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under this chapter shall not be allowed.*
- (2) *Nothing in this chapter shall be construed to permit the same item to be deducted more than once.*

➔SECTION 55. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

For taxable years beginning on or after January 1, 2018, in the case of taxpayers other than corporations:

- (I) *Adjusted gross income shall be calculated by subtracting from the gross income of those taxpayers the deductions allowed individuals by Section 62 of the Internal Revenue Code and adjusting as follows:*
 - (a) *Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;*
 - (b) *Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Pub. L. No. 89-699;*
 - (c) *Include interest income derived from obligations of sister states and political subdivisions thereof;*
 - (d) *Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;*
 - (e) *Exclude Social Security and railroad retirement benefits subject to federal income tax;*
 - (f) *Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;*
 - (g)
 1.
 - a. *For taxable years beginning after December 31, 2005, but before January 1, 2018, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans; and*
 - b. *For taxable years beginning on or after January 1, 2018, exclude up to thirty-one thousand one hundred ten dollars (\$31,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.*
 2. *As used in this paragraph:*
 - a. *"Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code;*
 - b. *"Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution; and*
 - c. *"Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;*
 - (h)
 1.
 - a. *Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and*
 - b. *Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.*
 2. *The shareholder's basis of stock held in an S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;*
 - (i) *Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primaries or regular or special elections;*

- (j) *Exclude any capital gains income attributable to property taken by eminent domain;*
- (k) *1. Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred.*
 - 2. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;*
- (l) *Exclude all military pay received by active duty members of the Armed Forces of the United States, members of reserve components of the Armed Forces of the United States, and members of the National Guard, including compensation for state active duty as described in KRS 38.205; and*
- (m) *1. Include the deduction for depreciation under 26 U.S.C. sec. 167 or 168; and*
 - 2. Exclude the amounts allowed by KRS 141.0101 for depreciation; and*
- (2) *Net income shall be calculated by subtracting from adjusted gross income all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:*
 - (a) *Any deduction allowed by 26 U.S.C. sec. 163 for investment interest;*
 - (b) *Any deduction allowed by 26 U.S.C. sec. 164 for taxes;*
 - (c) *Any deduction allowed by 26 U.S.C. sec. 165 for losses;*
 - (d) *Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;*
 - (e) *Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;*
 - (f) *Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous deduction;*
 - (g) *Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that the deduction has not been claimed under KRS 140.090(1)(h);*
 - (h) *Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and any other deductions in lieu thereof;*
 - (i) *Any deduction allowed for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and*
 - (j) *A taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63 and as modified by this section.*

➔SECTION 56. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

For taxable years beginning on or after January 1, 2018, in the case of corporations:

- (1) *Gross income shall be calculated by adjusting federal gross income as defined in Section 61 of the Internal Revenue Code as follows:*
 - (a) *Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;*
 - (b) *Exclude all dividend income;*
 - (c) *Include interest income derived from obligations of sister states and political subdivisions thereof;*
 - (d) *Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage*

depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

- (e) *Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;*
- (f) *Include the amount calculated under Section 80 of this Act;*
- (g) *Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;*
- (h) *Include the amount of depreciation deduction calculated under 26 U.S.C. sec. 167 or 168; and*
- (2) *Net income shall be calculated by subtracting from gross income:*
 - (a) *The deduction for depreciation allowed by KRS 141.0101;*
 - (b) *Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families; and*
 - (c) *All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:*
 - 1. *Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;*
 - 2. *The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;*
 - 3. *The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;*
 - 4. *Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;*
 - 5. *Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;*
 - 6. *Any deduction prohibited by Section 80 of this Act; and*
 - 7. *Any dividends-paid deduction of any captive real estate investment trust.*

➔Section 57. KRS 141.020 is amended to read as follows:

- (1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.
- (2) (a) *For taxable years beginning on or after January 1, 2018, the tax shall be five percent (5%) of net income*[For taxable years beginning before January 1, 2005, the tax shall be determined by applying the following rates to net income:
 - 1. ~~Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);~~
 - 2. ~~Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);~~

- ~~3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);~~
 - ~~4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000); and~~
 - ~~5. Six percent (6%) of the amount of net income over eight thousand dollars (\$8,000).~~
- (b) For taxable years beginning after December 31, 2004, **and before January 1, 2018**, the tax shall be determined by applying the following rates to net income:
1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
 2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
 3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
 4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);
 5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
 6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).
- (3) (a) ~~For taxable years beginning before January 1, 2014,~~ The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:
1. *a. For taxable years beginning before January 1, 2014*, twenty dollars (\$20) for an unmarried individual; **and**
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018*, ten dollars (\$10) for an unmarried individual;
 2. *a. For taxable years beginning before January 1, 2014*, twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code; **and**
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018*, ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of a taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;
 3. *a. For taxable years beginning before January 1, 2014*, twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his **or her** spouse; **and**
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018*, ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his **or her** spouse;
 4. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
 5. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of

the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

6. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
 8. *In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);*
 9. *In the case of an estate, the allowable tax credit shall be ten dollars (\$10); and*
 10. *An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.*
- (b) In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by *Section 55 of this Act* ~~[KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection,]~~ to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:
1. ~~[a.]~~ The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
 2. ~~[b.]~~ Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by *Section 55 of this Act* ~~[KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection,]~~ to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse. ~~[.]~~
- (c) ~~[9.]~~ In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by *Section 55 of this Act* ~~[subsection (10) of KRS 141.010, without the adjustments contained in paragraphs (f) and (g) of that subsection,]~~ to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code ~~;~~
10. ~~In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);~~
 11. ~~In the case of an estate, the allowable tax credit shall be twenty dollars (\$20); and~~
 12. ~~An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.~~
- (b) ~~1.~~ For taxable years beginning on or after January 1, 2014, the following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:
- a. ~~Ten dollars (\$10) for an unmarried individual;~~
 - b. ~~Ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;~~
 - e. ~~Ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;~~
 - d. ~~An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty five (65) before the close of the taxable year;~~

- e. ~~An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;~~
 - f. ~~An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;~~
 - g. ~~An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;~~
 - h. ~~In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);~~
 - i. ~~In the case of an estate, the allowable tax credit shall be ten dollars (\$10); and~~
 - j. ~~An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.~~
2. ~~In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:~~
- a. ~~The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or~~
 - b. ~~Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.~~
3. ~~In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code}.~~
- (4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.
 - (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
 - (6) An individual who becomes a resident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (4) of this section prior to establishing residence and as prescribed in subsection (1) of this section following the establishment of residence.
 - (7) An individual who becomes a nonresident of Kentucky during the taxable year is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a

resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.

➔Section 58. KRS 141.040 is amended to read as follows:

- (1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) to ~~(h)~~~~(i)~~ of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income ~~or the alternative minimum calculation computed under this section~~ at the rates specified in this section:
 - (a) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 286.3-135;
 - (b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
 - (c) Banks for cooperatives;
 - (d) Production credit associations;
 - (e) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
 - (f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
 - (g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; *and*
 - (h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:
 1. The property consists of the final printed product, or copy from which the printed product is produced; and
 2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b)~~; and~~
 - ~~(i) For all taxable years except those beginning after December 31, 2004, and before January 1, 2007, S corporations.~~
- ~~(2) For tax years ending before January 1, 1990, the following rates shall apply:~~
 - ~~(a) Three percent (3%) of the first twenty five thousand dollars (\$25,000) of taxable net income;~~
 - ~~(b) Four percent (4%) of the amount of taxable net income in excess of twenty five thousand dollars (\$25,000), but not in excess of fifty thousand dollars (\$50,000);~~
 - ~~(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);~~
 - ~~(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and~~
 - ~~(e) Seven and twenty five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).~~
- ~~(3) For tax years beginning after December 31, 1989, and before January 1, 2005, the following rates shall apply:~~
 - ~~(a) Four percent (4%) of the first twenty five thousand dollars (\$25,000) of taxable net income;~~
 - ~~(b) Five percent (5%) of the amount of taxable net income in excess of twenty five thousand dollars (\$25,000) but not in excess of fifty thousand dollars (\$50,000);~~
 - ~~(c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);~~
 - ~~(d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and~~
 - ~~(e) Eight and twenty five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).~~

- (4) ~~For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:~~
- ~~(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and~~
 - ~~(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.~~
- (5) ~~For taxable years beginning after December 31, 2004, and before January 1, 2007, corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection, the tax computed under paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection (7) of this section. The tax computed under this subsection is as follows:~~
- ~~(a) 1. Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;~~
 - ~~2. Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and~~
 - ~~3. Seven percent (7%) of taxable net income over one hundred thousand dollars (\$100,000); or~~
 - ~~(b) An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:~~
 - ~~1. The gross receipts calculation contained in subsection (11) of this section; or~~
 - ~~2. The gross profits calculation contained in subsection (12) of this section].~~
- (2) ***For taxable years beginning on or after January 1, 2018, the rate of five percent (5%) of taxable net income shall apply.***
- (3)~~(6)~~ For taxable years beginning on or after January 1, 2007, ***and before January 1, 2018***, the following rates shall apply:
- (a) Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;
 - (b) Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and
 - (c) Six percent (6%) of taxable net income over one hundred thousand dollars (\$100,000).
- ~~(7) For taxable years beginning on or after January 1, 2005, and before January 1, 2007, a minimum of one hundred seventy five dollars (\$175) shall be due for the taxable year from each corporation subject to the tax imposed by this section, regardless of the application of any tax credits provided under this chapter or any other provision of the Kentucky Revised Statutes for which the business entity may qualify.~~
- (8) ~~The alternative minimum calculation portion of the tax computation provided in subsection (5) of this section shall not apply to:~~
- ~~(a) Public service corporations subject to tax under KRS 136.120;~~
 - ~~(b) Open end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;~~
 - ~~(c) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;~~
 - ~~(d) An alcohol production facility as defined in KRS 247.910; and~~
 - ~~(e) For taxable years beginning after December 31, 2005, and before January 1, 2007, political organizations as defined in Internal Revenue Code Section 527 and related regulations.~~
- (9) ~~For taxable years beginning after December 31, 2004, and before January 1, 2007:~~

- (a) ~~As used in this subsection, "qualified exempt organization" means an entity listed in subsection (1)(a) to (h) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.~~
 - (b) ~~Notwithstanding any other provisions of this section or KRS 141.010, any corporation of the type listed in KRS 141.010(24)(b)2. to 8. that is owned in whole or in part by a qualified exempt organization shall, in calculating its taxable net income, gross receipts, or Kentucky gross profits, exclude the proportionate share of its taxable net income, gross receipts, or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.~~
 - (c) ~~Any corporation that reduces taxable net income, gross receipts, or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under KRS 141.420.~~
 - (d) ~~The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.~~
- (10) ~~For taxable years beginning after December 31, 2004, and before January 1, 2007:~~
- (a) ~~To the extent that a corporation identified in KRS 141.010(24)(b)2. to 8. is doing business in this state, any member, shareholder or partner of the corporation may elect to pay, on behalf of the corporation, his, her or its proportionate share of the tax imposed by this section against the corporation. If an election is made, the electing member, shareholder or partner shall be treated in the same manner as the corporation regarding the proportionate part of the tax paid by the member, shareholder or partner. An election made pursuant to this subsection shall not:~~
 - 1. ~~Be used by the Department of Revenue or the taxpayer to assert that the party making the election is doing business in Kentucky;~~
 - 2. ~~Result in an increase of the amount of credit allowable under KRS 141.420; or~~
 - 3. ~~Apply to any corporation that is required to be included in a consolidated return under KRS 141.200(2) to (5) and (9) to (12).~~
 - (b) ~~The Department of Revenue shall prescribe forms and promulgate regulations to execute and administer the provisions of this subsection.~~
- (11) ~~The alternative minimum calculation for gross receipts shall be:~~
- (a) ~~For taxable years beginning on or after January 1, 2005, and before January 1, 2006, nine and one half cents (\$0.095) per one hundred dollars (\$100) of the corporation's Kentucky gross receipts; and~~
 - (b) ~~For taxable years beginning on or after January 1, 2006, and before January 1, 2007:~~
 - 1. ~~If the corporation's gross receipts from all sources are three million dollars (\$3,000,000) or less, the alternative minimum calculation shall be zero;~~
 - 2. ~~If the corporation's gross receipts from all sources are greater than three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the alternative minimum calculation shall be nine and one half cents (\$0.095) per one hundred dollars (\$100) of the corporation's Kentucky gross receipts, reduced by an amount equal to two thousand eight hundred fifty dollars (\$2,850) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's Kentucky gross receipts for the taxable year, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;~~
 - 3. ~~If the corporation's gross receipts from all sources are equal to or greater than six million dollars (\$6,000,000), the alternative minimum calculation shall be nine and one half cents (\$0.095) per one hundred dollars (\$100) of the corporation's Kentucky gross receipts.~~
- ~~In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross receipts of the affiliated group shall include the total gross receipts from all sources of the affiliated group, including eliminating entries for transactions among the group.~~
- (12) ~~The alternative minimum calculation for gross profits shall be:~~

- ~~(a) For taxable years beginning on or after January 1, 2005, and before January 1, 2006, seventy five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits; and~~
- ~~(b) For taxable years beginning on or after January 1, 2006, and before January 1, 2007:~~

- ~~1. If the corporation's gross profits from all sources are three million dollars (\$3,000,000) or less, the tax shall be zero;~~
- ~~2. If the corporation's gross profits from all sources are at least three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the tax shall be seventy five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits, reduced by an amount equal to twenty two thousand five hundred dollars (\$22,500) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's Kentucky gross profits, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;~~
- ~~3. If the corporation's gross profits from all sources are equal to or greater than six million dollars (\$6,000,000), the tax shall be seventy five cents (\$0.75) per one hundred dollars (\$100) on all of the corporation's Kentucky gross profits.~~

~~In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross profits of the affiliated group shall include the total gross profits from all sources of the affiliated group, including eliminating entries for transactions among the group.~~

~~(13) As used in subsections (11) and (12) of this section:~~

- ~~(a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the sales factor under the provisions of KRS 141.120(8)(c);~~
- ~~(b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the sales factor under the provisions of KRS 141.120(8)(c); and~~
- ~~(c) The terms defined in KRS 141.0401(1)(d) to (l) shall have the same meaning as provided in KRS 141.0401.~~

- ~~(4) [(14)]~~ (a) ~~[For taxable years beginning on or after January 1, 2007,]~~An S corporation shall pay income tax on the same items of income and in the same manner as required for federal purposes, except to the extent required by differences between this chapter and the federal income tax law and regulations.
- (b) 1. If the S corporation is required under Section 1363(d) of the Internal Revenue Code to submit installments of tax on the recapture of LIFO benefits, installments to pay the Kentucky tax due shall be paid on or before the due date of the S corporation's return, as extended, if applicable.
- 2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the installment payment for the period of extension.
- (c) If the S corporation is required under Section 1374 or 1375 of the Internal Revenue Code to pay tax on built-in gains or on passive investment income, the amount of tax imposed by this subsection shall be computed by applying the highest rate of tax for the taxable year.

➔SECTION 59. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The provisions of this section are the same as appeared in KRS 141.120 prior to its repeal and reenactment in Section 60 of this Act. This section applies to taxable years beginning prior to January 1, 2018.

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

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

- (d) *"Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;*
 - (e) *"Nonbusiness income" means all income other than business income;*
 - (f) *"Public service company" means any business entity subject to taxation under KRS 136.120;*
 - (g) *"Sales" means all gross receipts of the corporation not allocated under subsections (3) to (7) of this section, except as provided by KRS 141.121; and*
 - (h) *"State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.*
- (2) *Any corporation which is required by Section 52 of this Act to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.*
- (3) *Rents and royalties from real property, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (4) to (7) of this section.*
- (4) (a) *Net rents and royalties from real property located in this state are allocable to this state.*
- (b) *Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.*
- (c) *The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the corporation, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.*
- (d) *Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.*
- (5) (a) *Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.*
- (b) *Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.*
- (c) *Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the corporation's commercial domicile is in this state.*
- (6) *Interest is allocable to this state if the corporation's commercial domicile is in this state.*
- (7) (a) *Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.*
- (b) *A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.*

- (c) *A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.*
- (8) (a) *Except as provided in subsection (9) of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).*
 - (b)
 - 1. *The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.1-300 shall be excluded from the property factor.*
 - 2. *Property owned is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero (0) the property shall be valued by the department pursuant to administrative regulations promulgated by the department. Property rented is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals, provided that the rental and subrentals are reasonable. If the department determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero (0) rate is charged, the department may determine and apply the rental rate as will reasonably reflect the value of the property rented by the corporation.*
 - 3. *The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the department may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the property.*
 - (c) *The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the corporation for compensation, and the denominator of which is the total compensation paid or payable by the corporation everywhere during the tax period. Compensation is paid or payable in this state if:*
 - 1. *The individual's service is performed entirely within the state;*
 - 2. *The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or*
 - 3. *Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.*
 - (d)
 - 1. *The sales factor is a fraction, the numerator of which is the total sales of the corporation in this state during the tax period, and the denominator of which is the total sales of the corporation everywhere during the tax period.*
 - 2. *Sales of tangible personal property are in this state if:*
 - a. *The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or*
 - b. *The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.*

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

(10) *Public service companies and financial organizations required by Section 52 of this Act to allocate and apportion net income shall allocate and apportion such income as follows:*

- (a) *Nonbusiness income shall be allocated to this state as provided in subsections (4) to (7) of this section;***
- (b) *Business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2). The payroll factor shall be determined as provided in subsection (8)(c) of this section. The property factor and sales factor shall be determined as provided by administrative regulations promulgated by the department.***
- (c) *An affiliated group electing to file a consolidated return under KRS 141.200(4) or required to file a consolidated return under KRS 141.200(11) that includes a public service company, a provider of communications services or multichannel video programming services as defined in KRS 136.602, or a financial organization shall determine the amount of payroll to be included in the apportionment factor as provided in subsection (8)(c) of this section. The amount of property and sales of the public service company, provider of communications services or multichannel video programming services as defined in KRS 136.602, or financial organization to be included in the apportionment factors of the affiliated group shall be determined in accordance with administrative regulations promulgated by the department under paragraph (b) of this subsection.***

(11) *For taxable years beginning on or after January 1, 2007, a corporation that:*

- (a) *Owns an interest in a limited liability pass-through entity; or***
- (b) *Owns an interest in a general partnership organized or formed as a general partnership after January 1, 2006;***

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

➔SECTION 60. KRS 141.120 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

This section applies to taxable years beginning on or after January 1, 2018.

(I) *As used in this section:*

- (a) *"Apportionable income" means:***
 - 1. *All income that is apportionable under the Constitution of the United States and is not allocated under this section, including:***
 - a. *Income arising from transactions and activity in the regular course of the taxpayer's trade or business; and***
 - b. *Income arising from tangible and intangible property if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer's trade or business; and***
 - 2. *Any income that would be allocable to this state under the Constitution of the United States, but that is apportioned rather than allocated pursuant to this section;***
- (b) *"Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed;***
- (c) *"Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, cooperative bank, small loan company, sales finance company, investment company, or any similar type of entity;***
- (d) *"Non-apportionable income" means all income other than apportionable income;***

- (e) *"Receipts" means all gross receipts of the taxpayer that are not allocated under this section, and that are received from transactions and activity in the regular course of the taxpayer's trade or business, except that receipts of a taxpayer from:*
1. *Hedging transactions; and*
 2. *The maturity, redemption, sale, exchange, loan, or other disposition of cash or securities; shall be excluded; and*
- (f) *"This state" means the Commonwealth of Kentucky.*
- (2) *Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or a public service company, shall allocate and apportion net income as provided in this section.*
- (3) *For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if:*
- (a) *In that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or*
 - (b) *That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not do so.*
- (4) *Rents and royalties from real or tangible personal property, capital gains, interest, or patent or copyright royalties, to the extent that they constitute nonapportionable income, shall be allocated as provided in subsections (5) to (8) of this section.*
- (5) (a) *Net rents and royalties from real property located in this state are allocable to this state.*
- (b) *Net rents and royalties from tangible personal property are allocable to this state:*
1. *If and to the extent that the property is utilized in this state; or*
 2. *In their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.*
- (c) *The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction the numerator of which is the number of days of physical location of the property in this state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during all rental or royalty periods is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.*
- (6) (a) *Capital gains and losses from sales of real property located in this state are allocable to this state.*
- (b) *Capital gains and losses from sales of tangible personal property are allocable to this state if:*
1. *The property had a situs in this state at the time of the sale; or*
 2. *The taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.*
- (c) *Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.*
- (7) *Interest is allocable to this state if the taxpayer's commercial domicile is in this state.*
- (8) (a) *Patent and copyright royalties are allocable to this state:*
1. *If and to the extent that the patent or copyright is utilized by the payer in this state; or*
 2. *If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.*
- (b) *A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the*

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

- (9) *All apportionable income shall be apportioned to this state by multiplying the income by a fraction the numerator of which is the total receipts of the taxpayer in this state during the taxable year and the denominator of which is the total receipts of the taxpayer everywhere during the taxable year.*
- (10) *Receipts from the sale of tangible personal property are in this state if:*
 - (a) *The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or*
 - (b) *The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.*
- (11) (a) *Receipts, other than receipts described in subsection (10) of this section, are in this state if the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:*
 1. *In the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;*
 2. *In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;*
 3. *In the case of sale of a service, if and to the extent the service is delivered to a location in this state; and*
 4. *In the case of intangible property:*
 - a. *That is rented, leased, or licensed, if and to the extent the property is used in this state, provided that intangible property utilized in marketing a good or service to a consumer is used in this state if that good or service is purchased by a consumer who is in this state; and*
 - b. *That is sold, if and to the extent the property is used in this state, provided that:*
 - i. *A contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is used in this state if the geographic area includes all or part of this state;*
 - ii. *Receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of the intangible property under subdivision a. of this subparagraph; and*
 - iii. *All other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.*
- (b) *If the state or states of assignment under paragraph (a) of this subsection cannot be determined, the state or states of assignment shall be reasonably approximated.*
- (c) *If the taxpayer is not taxable in a state to which a receipt is assigned under paragraph (a) or (b) of this subsection, or if the state of assignment cannot be determined under paragraph (a) of this subsection or reasonably approximated under paragraph (b) of this subsection, the receipt shall be excluded from the denominator of the receipts factor.*
- (d) *The department may promulgate administrative regulations necessary to carry out the purposes of this section.*
- (12) (a) *If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:*
 1. *Separate accounting;*
 2. *The inclusion of one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state; or*

3. *The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.*
- (b) 1. *If the allocation and apportionment provisions of this section do not fairly represent the extent of business activity in this state of taxpayers engaged in a particular industry or in a particular transaction or activity, the department may, in addition to the authority provided in paragraph (a) of this subsection, promulgate administrative regulations for determining alternative allocation and apportionment methods for those taxpayers.*
2. *An administrative regulation promulgated pursuant to this paragraph shall be applied uniformly, except that with respect to any taxpayer to whom the administrative regulation applies, the taxpayer may petition for or the department may require adjustment according to paragraph (a) of this subsection.*
- (c) 1. *The party petitioning for or the department requiring the use of any method to effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to paragraph (a) of the subsection shall prove by clear and convincing evidence:*
 - a. *That the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state; and*
 - b. *That the alternative to the provisions is reasonable.*
2. *The same burden of proof shall apply whether the taxpayer is petitioning for, or the department is requiring, the use of any reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income. Notwithstanding the previous sentence, if the department can show that in any two (2) of the prior five (5) taxable years, the taxpayer had used an allocation or apportionment method at variance with its allocation or apportionment method or methods used for the other taxable years, then the department shall not bear the burden of proof in imposing a different method provided by paragraph (a) of this subsection.*
- (d) *If the department requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the department cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of this subsection.*
- (e) *A taxpayer that has received written permission from the department to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the department reasonably relied.*

➔Section 61. KRS 148.542 is amended to read as follows:

As used in KRS 148.542 to 148.546:

- (1) "Above-the-line production crew" means employees involved with the production of a motion picture or entertainment production whose salaries are negotiated prior to commencement of production, such as actors, directors, producers, and writers;
- (2) "Animated production" means a nationally distributed feature-length film created with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork or model positions in order to create an illusion of movement;
- (3) "Approved company" means an eligible company approved for incentives provided under KRS 141.383 and 148.544;
- (4) "Below-the-line production crew" means employees involved with the production of a motion picture or entertainment production except above-the-line production crew. "Below-the-line production crew" includes but is not limited to:
 - (a) Casting assistants;
 - (b) Costume design;
 - (c) Extras;

- (d) Gaffers;
 - (e) Grips;
 - (f) Location managers;
 - (g) Production assistants;
 - (h) Set construction staff; and
 - (i) Set design staff;
- (5) "Cabinet" means the Finance and Administration Cabinet;
- (6) ~~"Commercial" means an individual production or series of live action or animated productions, music videos, infomercials, or interstitials that are:~~
- ~~(a) Less than thirty one (31) minutes in length;~~
 - ~~(b) Made for the purpose of promoting a product, service, or idea; and~~
 - ~~(c) Produced for regional or national distribution via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices;~~
- ~~(7)}~~ "Commonwealth" means the Commonwealth of Kentucky;
- ~~(7)}~~~~(8)}~~ "Compensation" means compensation included in adjusted gross income as defined in KRS 141.010~~(10)}~~;
- ~~(8)}~~~~(9)}~~ "Documentary" means a production based upon factual information and not subjective interjections;
- ~~(9)}~~~~(10)}~~ "Eligible company" means any person that intends to film or produce a motion picture or entertainment production in the Commonwealth;
- ~~(10)}~~~~(11)}~~ "Employee" **has the same meaning as** ~~{means the same as defined}~~ in KRS 141.010~~(20)}~~;
- ~~(11)}~~~~(12)}~~ "Enhanced incentive county" has the same meaning as in KRS 154.32-010;
- ~~(12)}~~~~(13)}~~ "Feature-length film" means a live-action or animated production that is:
- (a) More than thirty (30) minutes in length; and
 - (b) Produced for distribution in theaters or via digital format, including but not limited to DVD, Internet, or mobile electronic devices;
- ~~(13)}~~~~(14)}~~ "Industrial film" means a business-to-business film that may be viewed by the public, including but not limited to videos used for training or for viewing at a trade show;
- ~~(14)}~~~~(15)}~~ "Kentucky-based company" has the same meaning as in KRS 164.6011;
- ~~(15)}~~~~(16)}~~ (a) "Motion picture or entertainment production" means:
- 1. The following if filmed in whole or in part, or produced in whole or in part, in the Commonwealth:
 - a. A feature-length film;
 - b. A television program;
 - c. An industrial film; **or**
 - d. A documentary;~~{or~~
 - ~~e. A commercial;}~~ **or**
 - 2. A national touring production of a Broadway show produced in Kentucky;
- (b) "Motion picture or entertainment production" does not include the filming or production of obscene material or television coverage of news or athletic events;
- ~~(16)}~~~~(17)}~~ "Obscene" **has the same meaning as** ~~{means the same as defined}~~ in KRS 531.010;
- ~~(17)}~~~~(18)}~~ "Office" means the Kentucky Film Office in the Tourism, Arts and Heritage Cabinet;
- ~~(18)}~~~~(19)}~~ "Person" **has the same meaning as** ~~{means the same as defined}~~ in KRS 141.010~~(15)}~~;

- ~~(19)~~~~(20)~~ (a) "Qualifying expenditure" means expenditures made in the Commonwealth for the following if directly used in or for a motion picture or entertainment production:
1. The production script and synopsis;
 2. Set construction and operations, wardrobe, accessories, and related services;
 3. Lease or rental of real property in Kentucky as a set location;
 4. Photography, sound synchronization, lighting, and related services;
 5. Editing and related services;
 6. Rental of facilities and equipment;
 7. Vehicle leases;
 8. Food; and
 9. Accommodations.
- (b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by the approved company on the qualifying expenditure;
- ~~(20)~~~~(21)~~ "Qualifying payroll expenditure" means compensation paid to above-the-line crew and below-the line crew while working on a motion picture or entertainment production in the Commonwealth if the compensation is for services performed in the Commonwealth;
- ~~(21)~~~~(22)~~ "Resident" has the same meaning as in KRS 141.010;
- ~~(22)~~~~(23)~~ "Secretary" means the secretary of the Tourism, Arts and Heritage Cabinet;
- ~~(23)~~~~(24)~~ "Tax incentive agreement" means the agreement entered into pursuant to KRS 148.546 between the office and the approved company; and
- ~~(24)~~~~(25)~~ "Television program" means any live-action or animated production or documentary, including but not limited to:
- (a) An episodic series;
 - (b) A miniseries;
 - (c) A television movie; or
 - (d) A television pilot;

that is produced for distribution on television via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices.

➔Section 62. KRS 148.544 is amended to read as follows:

- (1) The purposes of KRS 141.383 and 148.542 to 148.546 are to:
 - (a) Encourage the film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;
 - (b) Encourage the development of a film and entertainment industry in Kentucky;
 - (c) Encourage increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and
 - (d) Encourage the development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.
- (2) The Kentucky Film Office is hereby established in the Tourism, Arts and Heritage Cabinet to administer, together with the Finance and Administration Cabinet and the Tourism Development Finance Authority, the tax incentive established by KRS 141.383 and 148.542 to 148.546.
- (3) To qualify for the tax incentive provided in subsection (4) of this section, the following requirements shall be met:
 - (a) For an approved company that is also a Kentucky-based company that:

1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred twenty-five thousand dollars (\$125,000);
 2. ~~Films or produces a commercial in whole or in part in the Commonwealth that is distributed regionally or nationally, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred thousand dollars (\$100,000);~~
 3. ~~Produce~~ Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000); or
 3. ~~4.~~ Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars (\$10,000); and
- (b) For an approved company that is not a Kentucky-based company that:
1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be two hundred fifty thousand dollars (\$250,000); *or*
 2. ~~Films or produces a commercial in whole or in part in the Commonwealth that is distributed regionally or nationally, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred thousand dollars (\$100,000); or~~
 3. ~~Films or produces a documentary in whole or in part in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000).~~
- (4) (a) ***Beginning on the effective date of this Act, the total tax incentive approved under KRS 141.383 and 148.542 to 148.546 shall be limited to one hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year thereafter.***
- (b) ***On the effective date of this Act, if applications have been approved during the 2018 calendar year which exceed the amount in paragraph (a) of this subsection, the office shall immediately cease in approving any further applications for tax incentives.***
- (5) (a) The incentive available under KRS 141.383 and 148.542 to 148.546 is:
1. A refundable credit ***for applications approved prior to the effective date of this Act; and***
 2. A nonrefundable and nontransferable credit ***for applications approved on or after the effective date of this Act;***
- against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, as provided in KRS 141.383.
- (b) 1. For a motion picture or entertainment production filmed or produced in its entirety in an enhanced incentive county, the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:
- a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and
 - c. Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.
2. a. To the extent the approved company films or produces a motion picture or entertainment production in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (c) of this subsection.

- b. The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.
- (c) For a motion picture or entertainment production filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county, the amount of the incentive shall be equal to:
 - 1. Thirty percent (30%) of the approved company's:
 - a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to below-the-line production crew that are not residents; and
 - c. Qualifying payroll expenditures paid to above-the-line production crew that are not residents, not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee; and
 - 2. Thirty-five percent (35%) of the approved company's:
 - a. Qualifying payroll expenditures paid to resident below-the-line production crew; and
 - b. Qualifying payroll expenditures paid to resident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.
- (d) *Prior to June 1, 2019, the office and the Department of Revenue shall work jointly to provide the following information for each approved motion picture or entertainment production project to the Interim Joint Committee on Appropriations and Revenue by taxable year for all years that a credit under KRS 141.383 is or has been claimed:*
 - 1. *The name of the approved company and whether it is Kentucky-based or not;*
 - 2. *A brief description of the motion picture or entertainment production project;*
 - 3. *The amount of qualifying expenditures and the amount of qualifying payroll expenditures included in the agreement;*
 - 4. *The amount of qualifying expenditures and the amount of qualifying payroll expenditures paid to below-the-line production crew and paid to above-the-line production crew in an enhanced incentive county;*
 - 5. *The amount of qualifying expenditures and the amount of qualifying payroll expenditures paid to below-the-line production crew and paid to above-the line production crew in a county other than an enhanced incentive county; and*
 - 6. *The total amount of the tax credit claimed on a return by tax type, any amount denied, any amount applied against a tax liability, any amount refunded, and any amount remaining that may be claimed on a return filed in the future*~~[The Tourism Development Finance Authority may accept applications, authorize the execution of tax incentive agreements, and enter into tax incentive agreements beginning on June 26, 2009; however, no credit amount shall be claimed by the taxpayer as a refund or paid by the Department of Revenue prior to July 1, 2010].~~

➔Section 63. KRS 6.505 is amended to read as follows:

- (1) (a) Each legislator in office on July 1, 1980, may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the Legislators' Retirement Plan, in an amount equal to five percent (5%) of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he shall pay to the Legislators' Retirement Plan, for the months between July 1, 1980, and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system

under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan.

- (b)
 - 1. For a member who begins participating in the Legislators' Retirement Plan prior to January 1, 2014, the election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530.
 - 2.
 - a. For members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 6.500 to 6.577 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
 - b. For purposes of this subparagraph, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
 - c. The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 6.500 to 6.577, for members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, except the benefits specified by subparagraph 2.b. of this paragraph.
 - 3. The provisions of this paragraph shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Legislators' Retirement Plan as provided by KRS 6.500 to 6.577 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.
 - (c) An election once made under this section either to participate or not to participate in the Legislators' Retirement Plan, shall be considered to apply to all future service as a legislator, whether in the same or a different office as a legislator, and whether or not it is in successive terms.
 - (d) Notwithstanding the provisions of this subsection:
 - 1. A legislator who becomes a member of the Legislators' Retirement Plan on or after September 1, 2008, but prior to January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his monthly creditable compensation, as defined in KRS 61.510(13).
 - 2. A legislator who becomes a member of the Legislators' Retirement Plan on or after January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), of which:
 - a. Five percent (5%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used to provide funding for benefits provided under KRS 21.402; and
 - b. One percent (1%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used exclusively to help fund retiree health benefits as provided by KRS 6.577 and shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The amounts deducted under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 6.530.
- (2) A legislator entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 6.500 to 6.577.

- (3) When any legislator makes a delayed election of membership in the Legislators' Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service. However, any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Legislators' Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.
- (4) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~((10))~~. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) When any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.
- (6) A member of the Legislators' Retirement Plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees Retirement System, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Legislators' Retirement Plan.

➔Section 64. KRS 16.545 is amended to read as follows:

- (1) Except for members over age fifty-five (55) on July 1, 1958, who shall not be required to contribute, each member shall, commencing on July 1, 1998, contribute for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation.

- (2) The employer shall cause to be deducted from the compensation of each member for each and every payroll period subsequent to July 1, 1958, the contributions payable by such member as provided in KRS 16.510 to 16.652.
- (3) Every member shall be deemed to consent to deductions made as provided herein; and the payment of salary or compensation less such deduction shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 16.510 to 16.652.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~[(40)]~~. These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 16.510 to 16.652 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

➔Section 65. KRS 21.360 is amended to read as follows:

- (1) (a) Each Judge of the District Court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to:
 1. Five percent (5%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan prior to September 1, 2008;
 2. Six percent (6%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan on or after September 1, 2008, but prior to January 1, 2014; or
 3. Six percent (6%) of his or her monthly official salary, if the judge or justice who becomes a member of the Kentucky Judicial Retirement Plan on or after January 1, 2014, which shall be used to fund benefits as follows:
 - a. Five percent (5%) of the monthly official salary shall be used to provide funding for benefits provided under KRS 21.402; and
 - b. One percent (1%) of the monthly official salary to be used exclusively to help fund retiree health benefits as provided by KRS 21.427 and which shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The deducted amounts under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 21.347.
 - (b) The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, the amount required by paragraph (a) of this subsection, as a voluntary contribution by the member towards the funding of the retirement system. For a member who began contributing to the Judicial Retirement Plan prior to January 1, 2014, the contribution shall continue until the judge or justice is vested in a service retirement allowance equal to one hundred percent (100%) of final compensation. Thereafter employee contributions shall be discontinued but continued service and retirement benefits shall not be affected thereby.
- (2) A judge or justice entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office in 1980 or who elected membership in the Kentucky Employees Retirement System may elect membership not later than August 31, 2005. An election, upon being made pursuant to this

section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510.

- (3) (a) When any judge makes a delayed election of membership in the Judicial Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Judicial Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a judge, which he then has or which he subsequently regains while being an active member of the Judicial Retirement Plan, shall be transferred to and counted as service credit in the Judicial Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system, if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service.
- (b) Any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a judge, shall not be affected. Notwithstanding any provisions of KRS 61.680 to the contrary, final compensation used to determine benefits for any service credit remaining in the Kentucky Employees Retirement System shall be based on the highest years of compensation as a judge whether the years occur before or after the judge elects membership in the Judicial Retirement Plan.
- (c) No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Judicial Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially-assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.
- (4) Membership and benefit rights for judges and justices (other than Judges of the District Court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.
- (5) When any Judge of the District Court in office on July 1, 1978, elects membership in the Judicial Retirement System in accordance with this section, his membership in the Kentucky Employees Retirement System shall terminate as of July 1, 1978, and any credit in that system he earned for service as a Judge of the District Court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.
- (6) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(10)~~. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (7) An election once made under this section, either to participate or not to participate in the Judicial Retirement Plan, shall be considered to apply, to all future service in any office covered by the plan, whether such service is in the same or a different office, and whether or not it is continuous.

➔Section 66. KRS 45A.067 is amended to read as follows:

- (1) As used in this section:
 - (a) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another person or group of persons; and

- (b) "Person" includes any individual, firm, copartnership, pass-through entity as defined in KRS 141.010~~(26)~~, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit.
- (2) The Commonwealth shall not contract to acquire goods or services, and a person shall not contract to supply goods or services to the Commonwealth, unless, prior to or contemporaneous with entering into the contract, the person contracting to supply goods or services and its affiliates register with the Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139.
- (3) Nothing in this section shall require a person or affiliate to register if the person or affiliate does not make sales to customers in the Commonwealth.
- (4) The provisions of subsection (2) of this section are specifically applicable to foreign persons, notwithstanding the fact that the foreign person or the affiliate may not otherwise be legally obligated to collect and remit the sales and use tax.
- (5) The secretary of the Finance and Administration Cabinet shall promulgate an administrative regulation to establish the procedure ensuring compliance with the provisions of this section.

➔Section 67. KRS 61.523 is amended to read as follows:

The following shall apply if an employer ceases participation in the Kentucky Employees Retirement System or the County Employees Retirement System under KRS 61.522 and, after ceasing participation, establishes an alternative retirement plan as required by KRS 61.522, which is a governmental plan within the meaning of 26 U.S.C. sec. 414(d) that provides for mandatory employee contributions:

- (1) Each employee of the employer participating in the governmental plan shall contribute a fixed percentage of compensation for each pay period he or she receives compensation. The fixed percentage of compensation provided by this subsection shall:
 - (a) Be established in a written plan document by the board of directors or other governing body of the employer for specific classes of employees;
 - (b) Comply with subsections (2) to (4) of this section; and
 - (c) Only be changed by the board of directors or other governing body of the employer prospectively, provided the written plan document established by paragraph (a) of this subsection is amended to reflect the change;
- (2) The employer shall cause to be deducted from the compensation of each employee the contribution rate specified by subsection (1) of this section;
- (3) The deductions provided by this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided by this section, and payment of salary or compensation less these deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by such payment, except as to benefits payable under the plans established by the employer that are covered by this section;
- (4) Each employer shall, solely for the purpose of compliance with 26 U.S.C. sec. 414(h), pick up the employee contributions required by this section and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(10)~~, except for purposes of the Federal Insurance Contributions Act. The picked-up employee contribution shall:
 - (a) Be in lieu of employee contributions;
 - (b) Not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee; and
 - (c) Be paid by the employer from the same source of funds which is used to pay compensation to the employee.

The employee shall not be permitted to opt-out of the picked-up employee contributions, to receive the picked-up employee contributions directly instead of having them paid by the employer to the retirement plan, or to

have any other cash or deferred election right to the picked-up contributions within the meaning of 26 C.F.R. sec. 1.401(k)-1(a)(3); and

- (5) The provisions of this section shall not be construed to be a determination or opinion by the Kentucky General Assembly as to whether or not an employer who ceases participation in the Kentucky Employees Retirement System or the County Employees Retirement System under KRS 61.522 is a governmental agency for purposes of establishing a governmental plan within the meaning of 26 U.S.C. sec. 414(d).

➔Section 68. KRS 61.560 is amended to read as follows:

- (1) Each employee shall, commencing on August 1, 1986, contribute for each pay period for which he receives compensation five percent (5%) of his creditable compensation, except that members of the General Assembly, who elect the survivorship option provided in KRS 61.635(13), shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.515 to 61.705 notwithstanding, any reemployed retiree, as described in KRS 61.637, who became reemployed prior to September 1, 2008, and began participating in another retirement account shall contribute five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable.
- (2) Each employer shall cause to be deducted from the creditable compensation of each employee for each and every payroll period the contribution payable by each such employee as provided in KRS 61.515 to 61.705.
- (3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.515 to 61.705.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(40)~~. These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by KRS 61.522.

➔Section 69. KRS 65.155 is amended to read as follows:

- (1) Each local government or local government agency which has a pension plan which is qualified under Section 401(a) of the Internal Revenue Code shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions made to the respective retirement system pursuant to KRS 79.080, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769, 95.867, or 96.180 for all compensation earned after August 1, 1982, or after qualification pursuant to Section 401(a) of the Internal Revenue Code, whichever is later, and all contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(40)~~. However, each local government or local government agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, or later date, as the case may be, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The local governments or local government agencies shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to

receive the contributed amounts directly instead of having them paid by the local government or local government agency to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 79.080, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769, 95.867, or 96.180 in the same manner and to the same extent as employee contributions made prior to August 1, 1982, or later date of pick up, as the case may be.

- (2) The pick up of employee contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employee retirement benefit may be based in any of the retirement systems covered by this section.

➔Section 70. KRS 67A.320 is amended to read as follows:

- (1) Any urban-county government in which there existed a municipality which had in effect an employees' pension fund prior to its merger into the urban-county form of government shall provide by comprehensive plan or ordinance for the maintenance of the pension fund for those employees covered by the pension fund, and shall in each case provide for the payment to the pension fund in each month of the sum necessary to maintain the fund in accordance with the actuarial principles established by the actuarial studies described in this section, and may assess monthly the amount or percent of the salary of the employees as determined on a fair actuarial basis, and in any case not in excess of nine percent (9%) of the monthly salary of each employee unless a higher rate was charged prior to the merger of governments, in which case the higher rate may be charged, the assessment to be deducted from the employees' salaries or picked up pursuant to subsection (2) of this section and paid in cash into the pension fund. Within six (6) months after the effective date of the urban-county form of government, or within six (6) months after June 21, 1974, whichever shall be later, the trustees of the board shall, at the expense of the pension fund, provide for the performance of an actuarial valuation, which shall be completed within six (6) months thereafter, and shall describe the amounts necessary to be contributed by the urban-county government or other sources to fund on an actuarially sound basis the benefits promised or described in the fund, including any payments required to bring the fund to an actuarially sound position if it was not so at the time of the performance of the valuation. The legislative body shall determine a reasonable period over which additional funding, if any, shall be made, which period shall not exceed thirty (30) years. A similar valuation shall be arranged by the board at the cost of the urban-county government at least once in every three (3) year to five (5) year period thereafter as prescribed by KRS 65.156. If the fund created by this section is extended to cover employees not described in the first sentence of this section, the actuarial valuation shall determine the required payments necessary to keep the expanded fund on an actuarially sound basis, and the urban-county government shall maintain the fund, and shall assess against the additional covered employees the same monthly contribution as required for other government employees.
- (2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(140)~~. However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of this section in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (3) The pick up of employee contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employee retirement benefit is based.
- (4) There is hereby created a board for the existing employees' pension fund and trustees of that board. Trustees from the pension fund board shall consist of the mayor, four (4) members of the legislative body of the urban-county government selected by the legislative body, the secretary of the Finance and Administration Cabinet, the director of the Division of Personnel, and three (3) civil service employees or retirees to be elected to the board by those employees and retirees covered by the employees' pension fund. In the event that there is no position in the urban-county government denominated secretary of the Finance and Administration Cabinet

and/or director of the Division of Personnel, the appointed office of the urban-county government exercising the functions most closely resembling such office shall serve as trustee.

- (5) Temporary employees appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.
- (6) In no year shall the contribution by the urban-county government to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employees.
- (7) The trustees of the pension fund shall, at least once every three (3) months, report in writing to the mayor the receipts, expenditures, and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where urban-county employees frequent and report.
- (8) If the urban-county government issues the appropriate order allowing participation in the County Employees Retirement System alternate participation plan pursuant to KRS 78.530(3) and 78.531(2), the urban-county government shall have the right to use assets in the local pension fund, other than assets necessary to pay benefits to the remaining active members of the local pension fund and to retirees and their survivors as determined by actuarial valuation and other than assets payable to the County Employees Retirement System pursuant to KRS 78.531(2), to assist in the payment of both the employee's and employer's costs of alternate participation pursuant to KRS 78.530(3)(d).
- (9) If all liabilities to all individuals entitled to benefits from the employees' pension fund have been satisfied, any ordinances established for creation or maintenance of the fund may be repealed by the majority vote of the duly elected members of the entire legislative body of the urban-county government. If repealed, the fund's board of trustees shall, within sixty (60) days of repeal, proceed with the liquidation of any residual assets of the fund. All residual assets liquidated pursuant to this subsection shall be distributed by the board of trustees to the urban-county government's general fund which shall then contribute the entire distribution received into the policemen's and firefighters' retirement fund as a supplemental contribution, so long as the return of assets complies with federal and state law governing the distribution of assets. The supplemental contribution provided to the policemen's and firefighters' retirement fund under this subsection shall be in addition to the contributions required by KRS 67A.360 to 67A.690 and shall not be used to offset any other contributions required to be paid to the fund under the provisions of KRS 67A.360 to 67A.690. Within thirty (30) days following the distribution of residual assets, the board of trustees of the fund shall as its last act file a complete report with the legislative body of the urban-county government of the actions taken to terminate the fund and liquidate residual assets of the fund. Upon completion of the provisions specified by this subsection, the provisions of KRS 67A.320 to 67A.330 as it relates to the employees' pension fund shall be void.

➔Section 71. KRS 67A.510 is amended to read as follows:

- (1) (a) Each active member shall contribute a sum equal to not less than ten and one-half percent (10.5%) nor more than eleven percent (11%) of current salary, to be determined by the legislative body of the urban-county government, except that:
 1. For members whose participation date in the fund is prior to March 14, 2013, the members shall, effective July 1, 2013, contribute a sum equal to twelve percent (12%) of current salary to the fund; and
 2. For members whose participation date in the fund is on or after March 14, 2013, the member shall contribute a sum equal to twelve percent (12%) of current salary to the fund.
 - (b) The commissioner of finance of the government is hereby authorized to deduct such amount provided by this subsection from the salary paid to each active member during any pay period. This contribution shall be made as a deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate. Every member of the fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such member of salary less such deduction shall constitute a full and complete discharge and acquittance of all claims and demand whatsoever for the services rendered by such member during the period covered by such payment, except as to the benefits herein provided. After August 1, 1982, employee contributions shall be picked up by the urban-county government pursuant to subsection (2) of this section.
- (2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all

compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(10)~~. However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 67A.360 to 67A.690 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

➔Section 72. KRS 78.610 is amended to read as follows:

- (1) Each employee shall, commencing on August 1, 1990, contribute, for each pay period for which he receives compensation, five percent (5%) of his creditable compensation.
- (2) The agency reporting official of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system the contribution payable by the member as provided in KRS 78.510 to 78.852. The agency reporting official shall promptly pay the deducted employee contributions to the system in accordance with KRS 78.625.
- (3) The deductions provided for in subsection (2) of this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided in subsection (2) of this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(10)~~. These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by KRS 61.522.

➔Section 73. KRS 136.310 is amended to read as follows:

- (1) Every federally or state chartered savings and loan association, savings bank, and other similar institution authorized to transact business in this state, with property and payroll within and without this state, shall, during January of each year, file with the Department of Revenue a report containing information and in such form as the department may require.
- (2) The Department of Revenue shall fix the fair cash value, as of January 1 of each year, of the capital attributable to Kentucky in each financial institution included in subsection (1) of this section. The methodology employed by the department shall be a three (3) step process as follows:
 - (a) 1. The total value of deposits maintained in Kentucky less any amounts where the amount borrowed by a member equals or exceeds the amount deposited by that member shall be determined.

2. The total value of deposits maintained in Kentucky shall be determined by the same method used for filing the summary of deposits report with the Federal Deposit Insurance Corporation;
- (b) 1. The Kentucky apportioned value of capital shall be determined by including undivided profits, surplus, general reserves, and paid-up stock.
2. For Agricultural Credit Associations chartered by the Farm Credit Administration, capital shall be computed by deducting the book value of the association's investment in any other wholly owned institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or this section or that is exempt from state taxation by federal law.
3. The Kentucky value of capital shall be determined by a fraction, the numerator of which is the receipts factor plus the outstanding loan balance factor plus the payroll factor, and the denominator of which is three (3); and
- (c) 1. The values determined in steps (a) and (b) of this subsection shall be added together to determine total Kentucky capital and then reduced by the influence of ownership in tax-exempt United States obligations to determine Kentucky taxable capital.
2. The influence of tax-exempt United States obligations is to be determined from the reports of condition filed with the applicable supervisory agency as follows: the average amount of tax-exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by total Kentucky capital.
3. The department shall immediately notify each institution of the value so fixed.
- (3) The receipts factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is all receipts derived from loans and other sources negotiated through offices or derived from customers in Kentucky, and the denominator of which is total business receipts for the preceding calendar year.
- (4) (a) The outstanding loan balance factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is the average balance of outstanding loans negotiated from offices or made to customers in Kentucky, and the denominator of which is the average balance of all outstanding loans.
- (b) 1. The average outstanding loan balance is determined by adding the outstanding loan balance at the beginning of the preceding calendar year to the outstanding loan balance at the end of the preceding calendar year and dividing by two (2).
2. If the yearly beginning balance and ending balance results in an inequitable factor, the average outstanding loan balance may be computed on a monthly average balance.
- (5) The payroll factor specified in subsection (2)(b) of this section shall be determined for the preceding calendar year under the provisions of *Section 59 of this Act* ~~KRS 141.120(8)(b)~~ and administrative regulations promulgated according to KRS Chapter 13A.
- (6) (a) By July 1 succeeding the filing of the report as provided in subsection (1) of this section, each financial institution included in subsection (1) of this section shall pay directly into the State Treasury a tax of one dollar (\$1) for each one thousand dollars (\$1,000) paid in on its Kentucky taxable capital as fixed in subsection (2)(c) of this section.
- (b) The institution shall not be required to pay local taxes upon its capital stock, surplus, undivided profits, notes, mortgages, or other credits, and the tax provided by this section shall be in lieu of all taxes for state purposes on intangible property of the institution, nor shall any depositor of the institution be required to list his deposits for taxation under KRS 132.020.
- (c) Failure to make reports and pay taxes as provided in this section shall subject the institution to the same penalties imposed for such failure on the part of the other corporations.
- (7) If a financial institution included in subsection (1) of this section selects, it may deduct taxes imposed in subsection (6) of this section from the dividends paid or credited to a nonborrowing shareholder.
- (8) (a) Every Agricultural Credit Association chartered by the Farm Credit Administration being authorized to transact business in Kentucky but having no employees located within or without the state shall be subject to the same tax imposed pursuant to either KRS 136.300 or this section as that imposed upon its wholly owned Production Credit Association subsidiary.

- (b) For purposes of computing Kentucky apportioned value of capital pursuant to subsection (2) of this section, those Agricultural Credit Associations subject to the tax imposed by this section shall utilize that Kentucky apportionment fraction computed and utilized by its wholly owned Production Credit Association subsidiary for the same report period.

➔Section 74. KRS 136.530 is amended to read as follows:

- (1) The receipts factor is a fraction, the numerator of which is the receipts of the financial institution in this Commonwealth during the taxable year as determined by subsection (2) of this section and the denominator of which is the receipts of the financial institution within and without this Commonwealth during the taxable year. Receipts shall include the following:
 - (a) Receipts from the lease or rental of real property owned by the financial institution;
 - (b) Receipts from the lease or rental of tangible personal property owned by the financial institution;
 - (c) Interest and fees or penalties in the nature of interest from loans secured by real property;
 - (d) Interest and fees or penalties in the nature of interest from loans not secured by real property;
 - (e) Net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code;
 - (f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees;
 - (g) Net gains, but not less than zero (0), from the sale of credit card receivables;
 - (h) All credit card issuer's reimbursement fees;
 - (i) Receipts from merchant discount. Receipts from merchant discount shall be computed net of any cardholder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders;
 - (j) Loan servicing fees derived from loans secured by real property;
 - (k) Loan servicing fees derived from loans not secured by real property;
 - (l) Interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities. Investment assets and activities and trading assets and activities include but are not limited to investment securities, trading account assets, federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions. The receipts factor shall include the following amounts:
 - 1. The amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements; and
 - 2. The amount by which interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from these assets and activities;
 - (m) All receipts derived from sales that would be included in the factor established by *Section 59 of this Act* ~~[KRS 141.120(8)(c)]~~; and
 - (n) Receipts from services not otherwise specifically listed.
- (2) A determination of whether receipts should be included in the numerator of the fraction shall be made as follows:
 - (a) Receipts from the lease or rental of real property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth or receipts from the sublease of real property if the property is located within this Commonwealth.
 - (b) 1. Except as described in subparagraph 2. of this paragraph, receipts from the lease or rental of tangible personal property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth when it is first placed in service by the lessee.

2. Receipts from the lease or rental of transportation property owned by the financial institution are included in the numerator of the receipts factor to the extent that the property is used in this Commonwealth. The extent an aircraft will be deemed to be used in this Commonwealth and the amount of receipts that is to be included in the numerator of this Commonwealth's receipts factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.
- (c)
 1. Interest and fees or penalties in the nature of interest from loans secured by real property shall be included in the numerator if the property is located within this Commonwealth. If the property is located both within this Commonwealth and one (1) or more other states, receipts shall be included if more than fifty percent (50%) of the fair market value of the real property is located within this Commonwealth. If more than fifty percent (50%) of the fair market value of the real property is not located within any one (1) state, then the receipts described in this subparagraph shall be included in the numerator if the borrower is located in this Commonwealth.
 2. The determination of whether the real property securing a loan is located within this Commonwealth shall be made as of the time the original agreement was made, and any subsequent substitutions of collateral shall be disregarded.
 - (d) Interest and fees or penalties in the nature of interest from loans not secured by real property shall be included in the numerator if the borrower is located in this Commonwealth.
 - (e) Net gains from the sale of loans shall be included in the numerator as provided in subparagraphs 1. and 2. of this paragraph. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.
 1. The amount of net gains, but not less than zero (0), from the sale of loans secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.
 2. The amount of net gains, but not less than zero (0), from the sale of loans not secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.
 - (f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, shall be included in the numerator if the billing address of the card holder is in this Commonwealth.
 - (g) Net gains, but not less than zero (0), from the sale of credit card receivables to be included in the numerator shall be determined by multiplying the amount established in paragraph (g) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.
 - (h) Credit card issuer's reimbursement fees to be included in the numerator shall be determined by multiplying the amount established in paragraph (h) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.
 - (i) Receipts from merchant discount shall be included in the numerator if the commercial domicile of the merchant is in this Commonwealth. Receipts from merchant discount shall be computed net of any

cardholder charge backs but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

- (j) 1. a. Loan servicing fees derived from loans secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (j) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.
- b. Loan servicing fees derived from loans not secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (k) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.
- 2. In circumstances in which the financial institution receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include the fees if the borrower is located in this Commonwealth.
- (k) Receipts from services not otherwise apportioned under this section shall be included in the numerator if the service is performed in this Commonwealth. If the service is performed both within and without this Commonwealth, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income-producing activity is performed in this Commonwealth based on cost of performance.
- (l) 1. The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities described in paragraph (l) of subsection (1) of this section that are attributable to this Commonwealth.
 - a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from the assets and activities by a fraction the numerator of which is the average value of the assets that are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all the assets.
 - b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all funds and securities.
 - c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the average value of trading assets which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all assets.
 - d. For purposes of this subparagraph, average value shall be determined using the rules for determining the average value of tangible personal property set forth in KRS 136.535(3) and (4).

2. In lieu of using the method set forth in subparagraph 1. of this paragraph, the financial institution may elect, or the department may require in order to fairly represent the business activity of the financial institution in this Commonwealth, the use of the method set forth in this subparagraph.
 - a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from assets and activities by a fraction the numerator of which is the gross income from assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.
 - b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (1) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the gross income from funds and securities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all funds and securities.
 - c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (1) of subsection (1) of this section by a fraction the numerator of which is the gross income from trading assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.
3. If the financial institution elects or is required by the department to use the method set forth in subparagraph 2. of this paragraph, it shall use this method on all subsequent returns unless the financial institution receives prior permission from the department to use, or the department requires, a different method.
4. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside this Commonwealth by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this Commonwealth. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one (1) regular place of business and one (1) regular place of business is in this Commonwealth and one (1) regular place of business is outside this Commonwealth, the asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, the policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.
- (m) The numerator of the receipts factor includes all other receipts derived from sales as determined *in Section 59 of this Act* ~~pursuant to the provisions set forth in KRS 141.120(8)(c)]~~.
- (n)
 1. All receipts that would be assigned under this section to a state in which the financial institution is not taxable shall be included in the numerator of the receipts factor, if the financial institution's commercial domicile is in this Commonwealth.
 2. For purposes of subparagraph 1. of this paragraph, "taxable" means either:
 - a. That a financial institution is subject in another state to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a corporate stock tax including a bank shares tax, a single business tax, an earned surplus tax, or any tax which is imposed upon or measured by net income; or

- b. That another state has statutory authority to subject the financial institution to any of the taxes in subdivision a. of this subparagraph, whether in fact the state does or does not impose the tax.

➔Section 75. KRS 139.531 is amended to read as follows:

- (1) Notwithstanding any other provisions of this chapter to the contrary, the taxes imposed by this chapter shall apply to:
 - (a) Fees paid for breeding a stallion to a mare in this state;
 - (b) Sales of horses unless exempted under the provisions of subsections (2)(a) or (2)(d) of this section; and
 - (c) The sales price of any horse claimed at any race meeting within this state.
- (2) In addition to any other exemptions provided for the horse industry in this chapter, the taxes imposed under the provisions of this chapter shall not apply to the following activities:
 - (a) The sale or use of horses, or interests or shares in horses, provided the purchase or use is made for breeding purposes only;
 - (b) The use of a stallion for breeding purposes by an owner or shareholder of the stallion;
 - (c) The trading of stallion services by an owner or shareholder of the stallion;
 - (d) The sale of horses less than two (2) years of age at the time of sale, provided the sale is made to a nonresident of Kentucky. For the purposes of this section, a nonresident means a person as defined in KRS 141.010~~((15))~~ who is not a resident in this state as defined by KRS 141.010~~((17))~~ or who is not commercially domiciled in this state as defined in *Section 59 of this Act*~~[KRS 141.120(1)(b)]~~;
 - (e) The boarding and training of horses within this state; and
 - (f) The temporary use of horses within this state for purposes of racing, exhibiting, or performing.

➔Section 76. KRS 141.050 is amended to read as follows:

- (1) Except to the extent required by differences between this chapter and its application and the federal income tax law and its application, the administrative and judicial interpretations of the federal income tax law, computations of gross income and deductions therefrom, accounting methods, and accounting procedures, for purposes of this chapter shall be as nearly as practicable identical with those required for federal income tax purposes. Changes to federal income tax law made after the Internal Revenue Code reference date contained in KRS 141.010~~((3))~~ shall not apply for purposes of this chapter unless adopted by the General Assembly.
- (2) Every person subject to the provisions of this chapter shall keep records, render under oath statements, make returns, and comply with the rules and administrative regulations as the department from time to time may promulgate. Whenever the department judges it necessary, it may require a person, by notice served upon him or her, to make a return, render under oath statements, or keep records, as the department deems sufficient to show whether or not the person is liable for tax, and the extent of the liability.
- (3) The commissioner or his or her authorized agent or representative, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any taxpayers, may require the attendance of the taxpayer or of any other person having knowledge in the premises.
- (4) The department shall promulgate rules and regulations necessary to effectively carry out the provisions of this chapter.

➔Section 77. KRS 141.0401 is amended to read as follows:

- (1) As used in this section:
 - (a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the *apportionment fraction*~~[sales factor]~~ under *Section 60 of this Act*~~—the provisions of KRS 141.120(8)(e), KRS 141.120(9)]~~, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of Kentucky gross receipts of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;
 - (b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the *apportionment fraction*~~[sales factor]~~ under *Section 60 of this Act*~~—the provisions of KRS~~

~~141.120(8)(c), KRS 141.120(9)]~~, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of gross receipts from all sources of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

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

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

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

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

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

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

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

- (d) The department may promulgate administrative regulations to establish a method for calculating the cost of goods sold attributable to Kentucky.
- (3) A nonrefundable credit based on the tax calculated under subsection (2) of this section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The credit amount shall be determined as follows:
- (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040 shall be equal to the amount of tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, reduced by the minimum tax of one hundred seventy-five dollars (\$175), plus any credit determined in paragraph (b) of this subsection for tax paid by wholly or partially owned limited liability pass-through entities. The amount of credit allowed to a corporation based on the amount of tax paid under subsection (2) of this section for the current year shall be applied to the income tax due from the corporation's activities in this state. Any remaining credit from the corporation shall be disallowed.
 - (b) The credit allowed members, shareholders, or partners of a limited liability pass-through entity shall be the members', shareholders', or partners' proportionate share of the tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, as determined after the amount of tax paid has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit allowed to members, shareholders, or partners of a limited liability pass-through entity shall be applied to income tax assessed on income from the limited liability pass-through entity. Any remaining credit from the limited liability pass-through entity shall be disallowed.
- (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms prepared by the department, on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. Any tax remaining due after making the payments required in KRS 141.042 shall be paid by the original due date of the return.
- (5) The department shall prescribe forms and promulgate administrative regulations as needed to administer the provisions of this section.
- (6) The tax imposed by subsection (2) of this section shall not apply to:
- (a) Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;
 - (b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
 - (c) Banks for cooperatives;
 - (d) Production credit associations;
 - (e) Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
 - (f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
 - (g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;
 - (h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:
 - 1. The property consists of the final printed product, or copy from which the printed product is produced; and
 - 2. The corporation has no individuals receiving compensation in this state as provided in **Section 59 of this Act**~~[KRS 141.120(8)(b)]~~;
 - (i) Public service corporations subject to tax under KRS 136.120;

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

➔Section 78. KRS 141.121 is amended to read as follows:

- (1) As used in this section:
- (a) "Affiliated airline" means an airline:
 - 1. For which a qualified air freight forwarder facilitates air transportation; and
 - 2. That is in the same affiliated group as a qualified air freight forwarder;
 - (b) "Affiliated group" has the same meaning as in KRS 141.200;
 - (c) "Kentucky revenue passenger miles" means the total revenue passenger miles within the borders of Kentucky for all flight stages that either originate or terminate in this state;
 - (d) ~~"Liquid asset" means an asset, other than functional currency or funds held in bank accounts, held to provide a relatively immediate source of funds to satisfy the liquidity needs of the trade or business. "Liquid assets" include:~~

1. ~~Foreign currency and trading positions therein, other than functional currency used in the regular course of the corporation's trade or business;~~
 2. ~~Marketable instruments, including stocks, bonds, debentures, options, warrants, and futures contracts; and~~
 3. ~~Mutual funds which hold liquid assets;~~
- (e) "Marketable instrument" means an instrument that is traded in an established stock or securities market and is regularly quoted by brokers or dealers in making a market;
- (f) "Overall net gain" means the total net gain from all transactions incurred at each treasury function for the entire taxable period. "Overall net gain" does not mean the net gain from a specific transaction if multiple transactions occur during the taxable period;
- ~~(g)}~~ "Passenger airline" means a person or corporation engaged primarily in the carriage by aircraft of passengers in interstate commerce;
- (e)~~{(h)}~~ "Qualified air freight forwarder" means a person that:
1. Is engaged primarily in the facilitation of the transportation of property by air;
 2. Does not itself operate aircraft; and
 3. Is in the same affiliated group as an affiliated airline; *and*
- (f)~~{(i)}~~ "Revenue passenger miles" means miles calculated in accordance with 14 C.F.R. Part 241~~}; and~~
- (j) ~~"Treasury function" means the pooling and management of liquid assets for the purpose of satisfying the cash flow needs of the trade or business and includes the following situations:~~
1. ~~Providing liquidity for a corporation's business cycle; and~~
 2. ~~Providing a reserve for business contingencies or business acquisitions}.~~
- (2)~~{~~ If a corporation holds liquid assets in connection with one (1) or more treasury functions of the corporation, and the liquid assets produce business income when sold, exchanged, or otherwise disposed of, the overall net gain from those transactions for each treasury function for the tax period shall be included in the sales factor. For purposes of this subsection:
- (a) ~~Each treasury function shall be considered separately; and~~
 - (b) ~~A corporation principally engaged in the trade or business of purchasing and selling instruments or other items included in the definition of liquid assets is not performing a treasury function with respect to that income produced.~~
- ~~(3)}~~ For purposes of apportioning business income to this state *for taxable years beginning prior to January 1, 2018*:
- (a) Passenger airlines shall determine the property, payroll, and sales factors as follows:
 1. Except as modified by this subparagraph, the property factor shall be determined as provided in *Section 59 of this Act*~~[KRS 141.120(8)(a)]~~. Aircraft operated by a passenger airline shall be included in both the numerator and denominator of the property factor. Aircraft shall be included in the numerator of the property factor by determining the product of:
 - a. The total average value of the aircraft operated by the passenger airline; and
 - b. A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year;
 2. Except as modified by this subparagraph, the payroll factor shall be determined as provided in *Section 59 of this Act*~~[KRS 141.120(8)(b)]~~. Compensation paid during the tax period by a passenger airline to flight personnel shall be included in the numerator of the payroll factor by determining the product of:
 - a. The total amount paid during the taxable year to flight personnel; and

- b. A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year; and
 - 3. Except as modified by this subparagraph, the sales factor shall be determined as provided in **Section 59 of this Act**~~[KRS 141.120(8)(c)]~~. Transportation revenues shall be included in the numerator of the sales factor by determining the product of:
 - a. The total transportation revenues of the passenger airline for the taxable year; and
 - b. A fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year; and
 - (b) Qualified air freight forwarders shall determine the property, payroll, and sales factors as follows:
 - 1. The property factor shall be determined as provided in **Section 59 of this Act**~~[KRS 141.120(8)(a)]~~;
 - 2. The payroll factor shall be determined as provided in **Section 59 of this Act** ~~[KRS 141.120(8)(b)]~~; and
 - 3. Except as modified by this subparagraph, the sales factor shall be determined as provided in **Section 59 of this Act**~~[KRS 141.120(8)(c)]~~. Freight forwarding revenues shall be included in the numerator of the sales factor by determining the product of:
 - a. The total freight forwarding revenues of the qualified air freight forwarder for the taxable year; and
 - b. A fraction, the numerator of which is miles operated in Kentucky by the affiliated airline and the denominator of which is the total miles operated by the affiliated airline.
- (3) *For purposes of apportioning income to this state for taxable years beginning on or after January 1, 2018, except as modified by this subsection, the apportionment factor shall be determined as provided in Section 60 of this Act, except that:*
 - (a) *Transportation revenues shall be determined to be in this state by multiplying the total transportation revenues by a fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year; and*
 - (b) *Freight forwarding revenues shall be determined to be in this state by multiplying the total freight forwarding revenues by a fraction, the numerator of which is miles operated in Kentucky by the affiliated airline and the denominator of which is the total miles operated by the affiliated airline.*
- (4)
 - (a) *A corporation may elect the allocation and apportionment methods for the corporation's apportionable income provided for in paragraphs (b) and (c) of this subsection. The election, if made, shall be irrevocable for a period of five (5) years.*
 - (b) *All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:*
 - 1. *Total apportionable income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period;*
 - 2. *For purposes of subparagraph 1. of this paragraph, Kentucky receipts shall be determined by multiplying total receipts for the taxable year from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the*

investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year; and

3. *Nonapportionable income shall be allocated to this state as provided in Section 60 of this Act.*
- (c) *All apportionable income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in KRS 154.655(2), shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:*
 1. *The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year;*
 2. *The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year; and*
 3. *Nonapportionable income shall be allocated to this state as provided in Section 60 of this Act.*
- (5) *Public service companies and financial organizations required by Section 53 of this Act to allocate and apportion net income shall allocate and apportion that income as follows:*
 - (a) *Nonapportionable income shall be allocated to this state as provided in Section 60 of this Act;*
 - (b) *Apportionable income shall be apportioned to this state as provided by Section 60 of this Act. Receipts shall be determined as provided by administrative regulations promulgated by the department; and*
 - (c) *An affiliated group required to file a consolidated return under Section 79 of this Act that includes a public service company, a provider of communications services or multichannel video programming services as defined in KRS 136.602, or a financial organization shall determine the amount of receipts as provided by administrative regulations promulgated by the department.*
- (6) *A corporation:*
 - (a) *That owns an interest in a limited liability pass-through entity; or*
 - (b) *That owns an interest in a general partnership;*

shall include the proportionate share of receipts of the limited liability pass-through entity or general partnership when apportioning income. The phrases "an interest in a limited liability pass-through entity" and "an interest in a general partnership" shall extend to each level of multiple-tiered pass-through entities.

➔Section 79. KRS 141.200 is amended to read as follows:

- (1) Subsections (2) to (7) of this section shall apply for taxable periods ending before January 1, 2005, and election periods beginning prior to January 1, 2005.
- (2) As used in subsections (2) to (7) of this section, unless the context requires otherwise:
 - (a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;
 - (b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;
 - (c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter;

- (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
 - (e) "Election period" means the ninety-six (96) month period provided for in subsection (4)(d) of this section.
- (3) Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year, a member of an affiliated group electing to file a consolidated return in accordance with subsection (4) of this section.
- (4) (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.
- (b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income ~~in accordance with KRS 141.010(13),~~ and in determining the property, payroll, and sales factors in accordance with **Section 59 of this Act** ~~[KRS 141.120]~~. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under the provisions of KRS 141.040. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.
- (c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the department and shall be submitted to the department on or before the due date of the return including extensions for the first taxable year for which the election is made.
- (d) Notwithstanding subsections (9) to (15) of this section, any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the ninety-sixth consecutive calendar month expires.
- (e) For each taxable year for which an affiliated group has made an election in accordance with paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.
- (5) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.
- (6) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The Department of Revenue may require a further or supplemental report of further information and data necessary for computation of the tax.
- (7) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the department shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible such assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.
- (8) Subsections (9) to (14) of this section shall apply for taxable years beginning on or after January 1, 2005, unless otherwise provided.
- (9) As used in subsections (9) to (14) of this section:
- (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, "affiliated group" means one (1) or more chains of includible corporations connected through stock ownership, membership interest, or partnership interest with a common parent corporation which is an includible corporation if:

- a. The common parent owns directly an ownership interest meeting the requirements of subparagraph 2. of this paragraph in at least one (1) other includible corporation; and
 - b. An ownership interest meeting the requirements of subparagraph 2. of this paragraph in each of the includible corporations, excluding the common parent, is owned directly by one (1) or more of the other corporations.
- 2. The ownership interest of any corporation meets the requirements of this paragraph if the ownership interest encompasses at least eighty percent (80%) of the voting power of all classes of ownership interests and has a value equal to at least eighty percent (80%) of the total value of all ownership interests;
- (b) 1. For taxable years beginning after December 31, 2006, "affiliated group" means one (1) or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if:
 - a. The common parent owns directly stock meeting the requirements of subparagraph 2. of this paragraph in at least one (1) other includible corporation; and
 - b. Stock meeting the requirements of subparagraph 2. of this paragraph in each of the includible corporations, excluding the common parent, is owned directly by one (1) or more of the other corporations.
- 2. The stock of any corporation meets the requirements of this paragraph if the stock encompasses at least eighty percent (80%) of the voting power of all classes of stock and has a value equal to at least eighty percent (80%) of the total value of all stock;
- (c) "Common parent corporation" means the member of an affiliated group that meets the ownership requirement of paragraph (a)1. or (b)1. of this subsection;
- (d) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and is related to a member of an affiliated group through stock ownership;
- (e) "Includible corporation" means any corporation that is doing business in this state except:
 - 1. Corporations exempt from corporation income tax under KRS 141.040~~[(1)(a) to (i)]~~;
 - 2. Foreign corporations;
 - 3. Corporations with respect to which an election under Section 936 of the Internal Revenue Code is in effect for the taxable year;
 - 4. Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;
 - 5. Regulated investment companies as defined in Section 851 of the Internal Revenue Code;
 - 6. A domestic international sales company as defined in Section 992(a)(1) of the Internal Revenue Code;
 - 7. Any corporation that realizes a net operating loss whose **apportionment fraction under Section 60 of this Act** is ~~Kentucky property, payroll, and sales factors pursuant to KRS 141.120(8) are~~ de minimis;
 - 8. Any corporation for which the **apportionment fraction under Section 60 of this Act** ~~sum of the property, payroll and sales factors described in KRS 141.120(8)~~ is zero; and
 - 9. For taxable years beginning prior to January 1, 2006, and taxable years beginning on or after January 1, 2007, an S corporation as defined in Section 1361(a) of the Internal Revenue Code;
- (f) "Ownership interest" means stock, a membership interest in a limited liability company, or a partnership interest in a limited partnership or limited liability partnership;
- (g) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code;
- (h) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations

necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter; and

- (i) "Stock" means stock in a corporation, or a membership interest in a limited liability company that has elected to be treated as a corporation for federal tax purposes.
- (10) Every corporation doing business in this state except those exempt from taxation under KRS 141.040~~(1)(a) to (i)~~ shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year:
 - (a) An includible corporation in an affiliated group;
 - (b) A common parent corporation doing business in this state;
 - (c) A qualified subchapter S Subsidiary that is included in the return filed by the Subchapter S parent corporation;
 - (d) A qualified real estate investment trust subsidiary that is included in the return filed by the real estate investment trust parent; or
 - (e) A disregarded entity that is included in the return filed by its parent entity.
- (11) (a) An affiliated group, whether or not filing a federal consolidated return, shall file a consolidated return which includes all includible corporations.
- (b) An affiliated group required to file a consolidated return under this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income ~~in accordance with KRS 141.010(13), and~~ in determining the property, payroll, and sales factors in accordance with *Section 59 of this Act or the apportionment fraction in accordance with Section 60 of this Act*~~[KRS 141.120]~~. Includible corporations that have incurred a net operating loss shall not deduct an amount that exceeds, in the aggregate, fifty percent (50%) of the income realized by the remaining includible corporations that did not realize a net operating loss. The portion of any net operating loss limited by the application of this subsection shall be available for carryforward in accordance with KRS 141.011. The department~~[of Revenue]~~ shall promulgate administrative regulations to establish the manner and extent to which net operating losses attributable to tax periods ending prior to January 1, 2005, may offset income of affiliated groups. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under KRS 141.040. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.
- (12) Each includible corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any includible corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.
- (13) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers or management of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, chief accounting officer, manager, member, or partner. The department~~[of Revenue]~~ may require a further or supplemental report of further information and data necessary for computation of the tax.
- (14) In the case of a corporation doing business in this state that carries on transactions with stockholders, members or partners, or with other corporations related by ownership, by interlocking directorates, or by some other method, the department shall require that information necessary to make possible an accurate assessment of the income derived by the corporation from sources within this state be provided. To make possible this assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.
- (15) For any taxable year ending on or after December 31, 1995, except as provided under this section and KRS 141.205, nothing in this chapter shall be construed as allowing or requiring the filing of:
 - (a) A combined return under the unitary business concept; or

(b) A consolidated return.

~~(16) No assessment of additional tax due for any taxable year ending on or before December 31, 1995, made after December 22, 1994, and based on requiring a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.~~

~~(17) No claim for refund or credit of a tax overpayment for any taxable year ending on or before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.~~

~~(18) No corporation or group of corporations shall be allowed to file a combined return under the unitary business concept or a consolidated return for any taxable year ending before December 31, 1995, unless on or before December 22, 1994, the corporation or group of corporations filed an initial or amended return under the unitary business concept or consolidated return for a taxable year ending before December 22, 1994.~~

~~(19)~~ This section shall not be construed to limit or otherwise impair the department's authority under KRS 141.205.

➔Section 80. KRS 141.205 is amended to read as follows:

(1) As used in this section:

- (a) "Intangible property" means franchises, patents, patent applications, trade names, trademarks, service marks, copyrights, trade secrets, and similar types of intangible assets;
- (b) "Intangible expenses" includes the following only to the extent that the amounts are allowed as deductions or costs in determining taxable net income before the application of any net operating loss deduction provided under Chapter 1 of the Internal Revenue Code:

1. Expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;
2. Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions;
3. Royalty, patent, technical, and copyright fees;
4. Licensing fees; and
5. Other similar expenses and costs;

(c) "Intangible interest expense" means only those amounts which are directly or indirectly allowed as deductions under Section 163 of the Internal Revenue Code for purposes of determining taxable income under that code, to the extent that the amounts are directly or indirectly for, related to, or connected to the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;

(d) "Management fees" includes but is not limited to expenses and costs paid for services pertaining to accounts receivable and payable, employee benefit plans, insurance, legal, payroll, data processing, purchasing, tax, financial and securities, accounting, reporting and compliance services or similar services, only to the extent that the amounts are allowed as a deduction or cost in determining taxable net income before application of the net operating loss deduction for the taxable year provided under Chapter 1 of the Internal Revenue Code;

(e) "Affiliated group" has the same meaning as provided in KRS 141.200;

(f) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and that would be a related member if it were a domestic corporation;

(g) "Related member" means a person that, with respect to the entity during all or any portion of the taxable year, is:

1. A person or entity that has, directly or indirectly, at least fifty percent (50%) of the equity ownership interest in the taxpayer, as determined under Section 318 of the Internal Revenue Code;
2. A component member as defined in Section 1563(b) of the Internal Revenue Code;

3. A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code; or
 4. A person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in subparagraphs 1. to 3. of this paragraph;
- (h) "Recipient" means a related member or foreign corporation to whom the item of income that corresponds to the intangible interest expense, the intangible expense, or the management fees, is paid;
- (i) "Unrelated party" means a person that has no direct, indirect, beneficial or constructive ownership interest in the recipient; and in which the recipient has no direct, indirect, beneficial or constructive ownership interest;
- (j) "Disclosure" means that the entity shall provide the following information to the Department of Revenue with its tax return regarding a related party transaction:
1. The name of the recipient;
 2. The state or country of domicile of the recipient;
 3. The amount paid to the recipient; and
 4. A description of the nature of the payment made to the recipient;
- (k) "Other related party transaction" means a transaction which:
1. Is undertaken by an entity which was not required to file a consolidated return under KRS 141.200;
 2. Is undertaken by an entity, directly or indirectly, with one (1) or more of its stockholders, members, partners, or affiliated entities; and
 3. Is not within the scope of subsections (2) and (3) of this section;
- (l) "Related party costs" means intangible expense, intangible interest expense, management fees and any costs or expenses associated with other related party transactions; and
- (m) "Entity" means any taxpayer other than a natural person.
- (2) An entity subject to the tax imposed by this chapter shall not be allowed to deduct an intangible expense, an intangible interest expense, or a management fee directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one (1) or more direct or indirect transactions with one (1) or more related members or with a foreign corporation as defined in subsection (1) of this section, or with an entity that would be included in the affiliated group based upon ownership interest if it were organized as a corporation.
- (3) The disallowance of deductions provided by subsection (2) of this section shall not apply if:
- (a) The entity and the recipient are both included in the same consolidated Kentucky corporation income tax return for the relevant taxable year; or
 - (b) The entity makes a disclosure, and establishes by a preponderance of the evidence that:
 1. The payment made to the recipient was subject to, in its state or country of commercial domicile, a net income tax, or a franchise tax measured by, in whole or in part, net income. If the recipient is a foreign corporation, the foreign nation shall have in force a comprehensive income tax treaty with the United States; and
 2. The recipient is engaged in substantial business activities separate and apart from the acquisition, use, licensing, management, ownership, sale, exchange, or any other disposition of intangible property, or in the financing of related members, as evidenced by the maintenance of permanent office space and full-time employees dedicated to the maintenance and protection of intangible property; and
 3. The transaction giving rise to the intangible interest expense, intangible expense, or management fees between the entity and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's-length transaction; or
 - (c) The entity makes a disclosure, and establishes by preponderance of the evidence that the recipient regularly engages in transactions with one (1) or more unrelated parties on terms identical to that of the subject transaction; or

- (d) The entity and the Department of Revenue agree in writing to the application or use of an alternative method of apportionment under KRS 141.120~~[(9)]~~.
- (4) An entity subject to the tax imposed by this chapter may deduct expenses or costs associated with an other related party transaction only in an amount equal to the amount which would have resulted if the other related party transaction had been carried out at arm's length. In any dispute between the department and the entity with respect to the amount which would have resulted if the transaction had been carried out at arm's length, the entity shall bear the burden of establishing the amount by a preponderance of the evidence.
- (5) Nothing in this section shall be deemed to prohibit an entity from deducting a related party cost in an amount permitted by this section, provided that the entity has incurred related party costs equal to or greater than the amounts permitted by this section.
- (6) If it is determined by the department that the amount of a deduction claimed by an entity with respect to a related party cost is greater than the amount permitted by this section, the net income of the entity shall be adjusted to reflect the amount of the related party cost permitted by this section.
- (7) For tax periods ending before January 1, 2005, in the case of entities not required to file a consolidated or combined return under subsection (1) of this section that carried on transactions with stockholders or affiliated entities directly or indirectly, the department shall adjust the net income of such entities to an amount that would result if such transactions were carried on at arm's length.

➔Section 81. KRS 141.206 is amended to read as follows:

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

- ~~(a) For taxable years beginning after December 31, 2004, and before January 1, 2007, "pass through entity" means a general partnership not subject to the tax imposed by KRS 141.040, including any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code and its publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership; and~~
- ~~(b) For all other taxable years, "pass through entity" means pass through entity as defined in KRS 141.040.~~

~~(2)~~ Every pass-through entity doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal tax return with the form prescribed and furnished by the department.

~~(2)(3)~~ Pass-through entities shall determine net income in the same manner as in the case of an individual under KRS 141.010~~[(9) to (11)]~~ and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of net income under this section and the computation of the partner's, member's, or shareholder's distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

~~(3)(4)~~ Individuals, estates, trusts, or corporations doing business in this state as a partner, member, or shareholder in a pass-through entity shall be liable for income tax only in their individual, fiduciary, or corporate capacities, and no income tax shall be assessed against the net income of any pass-through entity, except as required for S corporations by KRS 141.040~~[(14)]~~.

~~(4)(5)~~ (a) Every pass-through entity required to file a return under subsection ~~(1)(2)~~ of this section, except publicly traded partnerships as defined in KRS 141.040(6)(r), shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each:

1. Nonresident individual partner, member, or shareholder; and
2. Corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity.

(b) Withholding shall be at the maximum rate provided in KRS 141.020 or 141.040.

~~(5)(6)~~ (a) Effective for taxable years beginning after December 31, 2011, every pass-through entity required to withhold Kentucky income tax as provided by subsection ~~(4)(5)~~ of this section shall make a declaration and payment of estimated tax for the taxable year if:

1. For a nonresident individual partner, member, or shareholder, the estimated tax liability can reasonably be expected to exceed five hundred dollars (\$500); or
 2. For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the estimated tax liability can reasonably be expected to exceed five thousand dollars (\$5,000).
- (b) The declaration and payment of estimated tax shall contain the information and shall be filed as provided in KRS 141.207.
- ~~(6)(7)~~ (a) If a pass-through entity demonstrates to the department that a partner, member, or shareholder has filed an appropriate tax return for the prior year with the department, then the pass-through entity shall not be required to withhold on that partner, member, or shareholder for the current year unless the exemption from withholding has been revoked pursuant to paragraph (b) of this subsection.
- (b) An exemption from withholding shall be considered revoked if the partner, member, or shareholder does not file and pay all taxes due in a timely manner. An exemption so revoked shall be reinstated only with permission of the department. If a partner, member, or shareholder who has been exempted from withholding does not file a return or pay the tax due, the department may require the pass-through entity to pay to the department the amount that should have been withheld, up to the amount of the partner's, member's, or shareholder's ownership interest in the entity. The pass-through entity shall be entitled to recover a payment made pursuant to this paragraph from the partner, member, or shareholder on whose behalf the payment was made.
- ~~(7)(8)~~ In determining the tax under this chapter, a resident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity shall take into account the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, deduction, and credit.
- ~~(8)(9)~~ In determining the tax under this chapter, a nonresident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity required to file a return under subsection ~~(1)(2)~~ of this section shall take into account:
- (a) 1. If the pass-through entity is doing business only in this state, the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, and deduction; or
 2. If the pass-through entity is doing business both within and without this state, the partner's, member's, or shareholder's distributive share of the pass-through entity's items of income, loss, and deduction multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection ~~(11)(12)~~ of this section; and
- (b) The partner's, member's, or shareholder's total distributive share of credits of the pass-through entity.
- ~~(9)(10)~~ A corporation that is subject to tax under KRS 141.040 and is a partner or member in a pass-through entity shall take into account the corporation's distributive share of the pass-through entity's items of income, loss, and deduction and:
- (a) **1.** For taxable years beginning *on or after January 1, 2007, but* prior to January 1, **2018**,~~2007, the items of income, loss, and deduction, when applicable, shall be multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection (12) of this section; or~~
 - ~~(b) For taxable years beginning on or after January 1, 2007:~~
 - ~~1. A corporation that owns an interest in a limited liability pass-through entity or that owns an interest in a general partnership organized or formed as a general partnership after January 1, 2006, shall include the proportionate share of the sales, property, and payroll of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and~~
 - 2. For taxable years beginning on or after January 1, 2018, shall include the proportionate share of the sales of the limited liability pass-through entity or general partnership in computing its own apportionment factor;**~~A corporation that owns an interest in a general partnership organized or formed on or before January 1, 2006, shall follow the provisions of paragraph (a) of this subsection; and~~
- ~~(b)(c)~~ Credits from the partnership.

- ~~(10)~~~~(11)~~ (a) If a pass-through entity is doing business both within and without this state, the pass-through entity shall compute and furnish to each partner, member, or shareholder the numerator and denominator of each factor of the apportionment fraction determined in accordance with subsection ~~(11)~~~~(12)~~ of this section.
- (b) For purposes of determining an apportionment fraction under paragraph (a) of this subsection, if the pass-through entity is:
1. Doing business both within and without this state; and
 2. A partner or member in another pass-through entity;
- then the pass-through entity shall be deemed to own the pro rata share of the property owned or leased by the other pass-through entity, and shall also include its pro rata share of the other pass-through entity's payroll and sales.
- (c) The phrases "a partner or member in another pass-through entity" and "doing business both within and without this state" shall extend to each level of multiple-tiered pass-through entities.
- (d) The attribution to the pass-through entity of the pro rata share of property, payroll and sales from its role as a partner or member in another pass-through entity will also apply when determining the pass-through entity's ultimate apportionment factor for property, payroll and sales as required under subsection ~~(11)~~~~(12)~~ of this section.
- ~~(11)~~~~(12)~~ (a) ***For taxable years beginning prior to January 1, 2018,*** a pass-through entity doing business within and without the state shall compute an apportionment fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, with each factor determined in the same manner as provided in ***Section 59 of this Act***~~*KRS 141.120(8)*~~, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).
- (b) ***For taxable years beginning on or after January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction as provided in Section 60 of this Act.***
- ~~(12)~~~~(13)~~ Resident individuals, estates, or trusts that are partners in a partnership, members of a limited liability company electing partnership tax treatment for federal income tax purposes, owners of single member limited liability companies, or shareholders in an S corporation which does not do business in this state are subject to tax under KRS 141.020 on federal net income, gain, deduction, or loss passed through the partnership, limited liability company, or S corporation.
- ~~(13)~~~~(14)~~ An S corporation election made in accordance with Section 1362 of the Internal Revenue Code for federal tax purposes is a binding election for Kentucky tax purposes.
- ~~(14)~~~~(15)~~ (a) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection, a "qualified investment partnership" means a pass-through entity that, during the taxable year, holds only investments that produce income that would not be taxable to a nonresident individual if held or owned individually.
- (b) A qualified investment partnership shall be subject to all other provisions relating to a pass-through entity under this section and shall not be subject to the tax imposed under KRS 141.040 or 141.0401.
- ~~(15)~~~~(16)~~ (a) 1. A pass-through entity may file a composite income tax return on behalf of electing nonresident individual partners, members, or shareholders.
2. The pass-through entity shall report and pay on the composite income tax return income tax at the highest marginal rate provided in this chapter on any portion of the partners', members', or shareholders' pro rata or distributive shares of income of the pass-through entity from doing business in this state or deriving income from sources within this state. Payments made pursuant to subsection ~~(5)~~~~(6)~~ of this section shall be credited against any tax due.
3. The pass-through entity filing a composite return shall still make estimated tax payments if required to do so by subsection ~~(5)~~~~(6)~~ of this section, and shall remain subject to any penalty provided by KRS 131.180 or 141.990 for any declaration underpayment or any installment not paid on time.

4. The partners', members', or shareholders' pro rata or distributive share of income shall include all items of income or deduction used to compute adjusted gross income on the Kentucky return that is passed through to the partner, member, or shareholder by the pass-through entity, including but not limited to interest, dividend, capital gains and losses, guaranteed payments, and rents.
- (b) A nonresident individual partner, member, or shareholder whose only source of income within this state is distributive share income from one (1) or more pass-through entities may elect to be included in a composite return filed pursuant to this section.
- (c) A nonresident individual partner, member, or shareholder that has been included in a composite return may file an individual income tax return and shall receive credit for tax paid on the partner's behalf by the pass-through entity.
- (d) A pass-through entity shall deliver to the department a return upon a form prescribed by the department showing the total amounts paid or credited to its electing nonresident individual partners, members, or shareholders, the amount paid in accordance with this subsection, and any other information the department may require. A pass-through entity shall furnish to its nonresident partner, member, or shareholder annually, but not later than the fifteenth day of the fourth month after the end of its taxable year, a record of the amount of tax paid on behalf of the partner, member, or shareholder on a form prescribed by the department.

➔Section 82. KRS 141.207 is amended to read as follows:

- (1) The declaration and payment of estimated tax required by KRS 141.206~~((6))~~ shall contain the following information:
 - (a) For a nonresident individual partner, member, or shareholder, the amount of estimated tax calculated under KRS 141.020 for the taxable year; and
 - (b) For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the amount of estimated tax calculated under KRS 141.040 for the taxable year.
- (2) The declaration of estimated tax required under this section shall be filed with the department by the pass-through entity in the same manner and at the same times as provided by:
 - (a) KRS 141.300, for a nonresident individual partner, member, or shareholder; and
 - (b) KRS 141.042, for a corporate partner or member.
- (3) The payment of estimated tax shall be made in installments by the pass-through entity in the same manner and at the same times as provided by:
 - (a) KRS 141.305, for a nonresident individual partner, member, or shareholder; and
 - (b) KRS 141.044, for a corporate partner or member.
- (4) A pass-through entity required to make a declaration and payment of estimated tax shall be subject to the penalty provisions of KRS 131.180 and 141.990 for any declaration underpayment or any installment not paid on time.

➔Section 83. KRS 141.325 is amended to read as follows:

- (1) An employee receiving wages shall on any day be entitled to the following withholding exemptions:
 - (a) ***For taxable years beginning before January 1, 2018:***
 1. One (1) exemption for himself;
 - 2.~~((b))~~ One (1) exemption for each dependent for whom he would be entitled to a tax credit under the provisions of KRS 141.020~~((3)(a)3. or (b)1.e.)~~;
 - 3.~~((c))~~ If the employee is married, the exemption to which his spouse is entitled, or would be entitled if such spouse were an employee, under subparagraph (a) of this subsection, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption; ***and***
 - ~~((d))~~ Such other withholding exemptions as the department may prescribe by regulation.
- (2) Every employee shall, ~~[on or before July 1, 1954, or]~~ before the date of commencement of employment, ~~[which ever is later,]~~ furnish his ***or her*** employer with a signed withholding exemption certificate relating to the

number of withholding exemptions which he *or she* claims, which in no event shall exceed the number to which he is entitled.

- (3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished~~[-; provided, that certificates furnished before July 1, 1954, shall be considered as furnished on that date].~~
- (4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.
- (5) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such time as the department may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.
- (6) If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten (10) days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.
- (7) Withholding exemption certificates shall be in ~~the[such]~~ form and contain ~~the[such]~~ information **required by**~~as~~ the department~~[- may by regulations prescribe].~~

➔Section 84. KRS 141.347 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" shall have the same meaning as set forth in KRS 154.22-010;
 - (b) "Economic development project" shall have the same meaning as set forth in KRS 154.22-010;
 - (c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-070;
 - (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- (2) An approved company shall determine the tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(1)~~ shall:
 - (a) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income ~~as defined by KRS 141.010(11)~~ or taxable net income~~[- as defined by KRS 141.010(14)]~~, including income from the economic development project;
 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

- (b)
 - 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, excluding net income attributable to the economic development project;
 - 2. Using the method chosen under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 - 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.22-050.
- (4)
 - (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to tax under KRS 141.040 or a trust not subject to tax under KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020~~(2)~~.
 - (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
 - (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.22-050.
 - (d) If the tax computed in this section exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 or 141.0401 for filing the returns.
 - (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the economic development project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall

be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.

- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.22-020 to 154.22-070 and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070.

➔Section 85. KRS 141.383 is amended to read as follows:

- (1) As used in this section:
 - (a) "Above-the-line production crew" means the same as defined in KRS 148.542;
 - (b) "Approved company" means the same as defined in KRS 148.542;
 - (c) "Below-the-line production crew" means the same as defined in KRS 148.542;
 - (d) "Cabinet" means the same as defined in KRS 148.542;
 - (e) "Office" means the same as defined in KRS 148.542;
 - (f) "Qualifying expenditure" means the same as defined in KRS 148.542;
 - (g) "Qualifying payroll expenditure" means the same as defined in KRS 148.542;
 - (h) "Secretary" means the same as defined in KRS 148.542; and
 - (i) "Tax incentive agreement" means the same as defined in KRS 148.542.
- (2) (a) There is hereby created a ~~refundable~~ tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.
- (b) *The incentive available under paragraph (a) of this section is:*
 - 1. *A refundable credit for applications approved prior to the effective date of this Act; and*
 - 2. *A nonrefundable and nontransferable credit for applications approved on or after the effective date of this Act.*
- (c)
 - 1. *Beginning on the effective date of this Act, the total tax incentive approved under Section 62 of this Act shall be limited to one hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year thereafter.*
 - 2. *On the effective date of this Act, if applications have been approved during the 2018 calendar year which exceed the amount in paragraph (a) of this subsection, the Kentucky Film Office shall immediately cease in approving any further applications for tax incentives.*
- (3) An approved company may receive a refundable tax credit on and after July 1, 2010, *but only for applications approved prior to the effective date of this Act*, if:
 - (a) The cabinet has received notification from the office that the approved company has satisfied all requirements of KRS 148.542 to 148.546; and
 - (b) The approved company has provided a detailed cost report and sufficient documentation to the office, which has been forwarded by the office to the cabinet, that:
 - 1. The purchases of qualifying expenditures were made after the execution of the tax incentive agreement; and
 - 2. The approved company has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures.

(4) ~~The refundable tax credit shall not apply until the taxable year in which the secretary notifies the approved company of the amount of refundable credit that is available. If the notification of approval is provided prior to July 1, 2010, the company shall not claim the credit and the department shall not issue any refunds until on or after July 1, 2010.~~

~~(5)~~ Interest shall not be allowed or paid on any refundable credits provided under this section.

~~(5)~~~~(6)~~ The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section.

~~(6)~~~~(7)~~ On or before September 1, 2010, and on or before each September 1 thereafter, for the immediately preceding fiscal year, the cabinet shall report to the office the names of the approved companies and the amounts of refundable income tax credit claimed.

➔Section 86. KRS 141.390 is amended to read as follows:

(1) As used in this section:

- (a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;
- (b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials;
- (c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner;
- (d) "Recapture period" means:
 - 1. For qualified equipment with a useful life of five (5) or more years, the period from the date the equipment is purchased to five (5) full years from that date; or
 - 2. For qualified equipment with a useful life of less than five (5) years, the period from the date the equipment is purchased to three (3) full years from that date;
- (e) "Useful life" means the period determined under Section 168 of the Internal Revenue Code;
- (f) "Baseline tax liability" means the tax liability of the taxpayer for the most recent tax year ending prior to January 1, 2005; and
- (g) "Major recycling project" means a project where the taxpayer:
 - 1. Invests more than ten million dollars (\$10,000,000) in recycling or composting equipment to be used exclusively in this state;
 - 2. Has more than seven hundred fifty (750) full-time employees with an average hourly wage of more than three hundred percent (300%) of the federal minimum wage; and
 - 3. Has plant and equipment with a total cost of more than five hundred million dollars (\$500,000,000).

(2) (a) A taxpayer that purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. Any credit allowed against the income taxes imposed pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

- (b) For taxable years beginning after December 31, 2004, a taxpayer that has a major recycling project containing recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste material shall be entitled to a credit against the income taxes imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. Any credit allowed against the income taxes imposed pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205. The credit described in this paragraph shall be limited to a period of ten (10) years commencing with the approval of the recycling credit application. In each taxable year, the amount of credits claimed for all major recycling projects shall be limited to:
1. Fifty percent (50%) of the excess of the total of each tax liability over the baseline tax liability of the taxpayer; or
 2. Two million five hundred thousand dollars (\$2,500,000), whichever is less.
- (c) A taxpayer with one (1) or more major recycling projects shall be entitled to a total credit including the amount computed in paragraph (a) of this subsection plus the amount of credit computed in paragraph (b) of this subsection.
- (d) A taxpayer shall not be permitted to utilize a credit computed under paragraph (a) of this subsection and a credit computed under paragraph (b) of this subsection on the same recycling or composting equipment.
- (3) Application for a tax credit shall be made to the Department of Revenue on or before the first day of the seventh month following the close of the taxable year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the Department of Revenue may require. The Department of Revenue shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section. ~~Any corporation as defined in KRS 141.010(24)(b)2. to 8. may elect to claim the balance of a recycling credit approved prior to March 18, 2005, against its tax liability imposed under KRS 141.040 and 141.0401. The election shall be binding on the taxpayer and the Department of Revenue until the balance of the recycling credit is used.~~
- (4) Except as provided in subsection (6) of this section, if a taxpayer that receives a tax credit under this section sells, transfers, or otherwise disposes of the qualifying recycling or composting equipment before the end of the recapture period, the tax credit shall be redetermined under subsection (5) of this section. If the total credit taken in prior taxable years exceeds the redetermined credit, the difference shall be added to the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs. If the redetermined credit exceeds the total credit already taken in prior taxable years, the taxpayer shall be entitled to use the difference to reduce the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs.
- (5) The total tax credit allowable under subsection (2) of this section for equipment that is sold, transferred, or otherwise disposed of before the end of the recapture period shall be adjusted as follows:
- (a) For equipment with a useful life of five (5) or more years that is sold, transferred, or otherwise disposed of:
1. One (1) year or less after the purchase, no credit shall be allowed.
 2. Between one (1) year and two (2) years after the purchase, twenty percent (20%) of the total allowable credit shall be allowed.
 3. Between two (2) and three (3) years after the purchase, forty percent (40%) of the total allowable credit shall be allowed.
 4. Between three (3) and four (4) years after the purchase, sixty percent (60%) of the total allowable credit shall be allowed.
 5. Between four (4) and five (5) years after the purchase, eighty percent (80%) of the total allowable credit shall be allowed.

- (b) For equipment with a useful life of less than five (5) years that is sold, transferred, or otherwise disposed of:
 - 1. One (1) year or less after the purchase, no credit shall be allowed.
 - 2. Between one (1) year and two (2) years after the purchase, thirty-three percent (33%) of the total allowable credit shall be allowed.
 - 3. Between two (2) and three (3) years after the purchase, sixty-seven percent (67%) of the total allowable credit shall be allowed.
 - (6) Subsections (4) and (5) of this section shall not apply to transfers due to death, or transfers due merely to a change in business ownership or organization as long as the equipment continues to be used exclusively in recycling or composting, or transactions to which Section 381(a) of the Internal Revenue Code applies.
 - (7) The Department of Revenue may promulgate administrative regulations to carry out the provisions of this section.
- ➔Section 87. KRS 141.400 is amended to read as follows:
- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;
 - (b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010;
 - (c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090;
 - (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
 - (2) An approved company shall determine the income tax credit as provided in this section.
 - (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~{(1)}~~ shall:
 - (a)
 - 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~{ as defined by KRS 141.010(11)}~~ or taxable net income~~{ as defined by KRS 141.010(14)}~~, including income from the economic development project;
 - 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 - 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (b)
 - 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~{ as defined by KRS 141.010(11)}~~ or taxable net income~~{ as defined by KRS 141.010(14)}~~, excluding net income attributable to the economic development project;
 - 2. Using the same method used under subparagraph 2. of paragraph (a) of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross receipts or Kentucky gross profits from the economic development project; and
 - 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.28-090.
 - (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to tax under KRS 141.040, or a trust not subject to tax under KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020~~{(2)}~~.

- (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
 - (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.28-090.
 - (d) If the tax computed in this section exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.0401 or 141.160 for filing the returns.
 - (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the economic development project is a totally separate facility:
- (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
- (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.

➔Section 88. KRS 141.401 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
- (a) "Approved company" shall have the same meaning as set forth in KRS 154.23-010;

- (b) "Economic development project" shall have the same meaning as set forth in KRS 154.23-010;
 - (c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-079;
 - (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- (2) An approved company shall determine the tax credit as provided in this section.
- (3) An approved company that is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(14)~~ shall:
- (a)
 - 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, including income from the economic development project;
 - 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 - 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (b)
 - 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, excluding net income attributable to the economic development project;
 - 2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 - 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (c) The tax credit shall be the amount by which the tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.
- (4) Notwithstanding any other provisions of this chapter, an approved company that is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020~~(2)~~, as follows:
- (a) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made in this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
 - (b) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.
 - (c) If the tax computed in this section exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
 - (d) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.

- (6) If the economic development project is a totally separate facility:
- (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
- (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.23-005 to 154.23-079 and the allowable income tax credit that an approved company may retain under KRS 154.23-005 to 154.23-079.

➔Section 89. KRS 141.403 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
- (a) "Approved company" shall have the same meaning as set forth in KRS 154.26-010;
 - (b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010;
 - (c) "Tax credit" means the tax credit allowed in KRS 154.26-090;
 - (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(14)~~ shall:
- (a) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, including income from the economic revitalization project;
 - 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic revitalization project; and

3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
- (b)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, excluding net income attributable to the economic revitalization project;
 2. Using the same method used under subparagraph 2. of paragraph (a) of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the economic revitalization project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
- (c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.26-090.
- (4)
 - (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed KRS 141.040 shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020~~(2)~~.
 - (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
 - (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.26-090.
 - (d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
 - (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the economic revitalization project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic revitalization project is an expansion to a previously existing facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic revitalization project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic revitalization project by a formula approved by the Department of Revenue; and

- (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility. Kentucky gross receipts or Kentucky gross profits attributable to the economic revitalization project for purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic revitalization project pursuant to a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic revitalization project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic revitalization project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

➔Section 90. KRS 141.405 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" has the same meaning as set forth in KRS 154.12-2084;
 - (b) "Skills training investment credit" has the same meaning as set forth in KRS 154.12-2084;
 - (c) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (d) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- (2) An approved company shall determine the tax credit as provided in this section.
- (3) (a) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(1)~~ shall:
 - 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~;
 - 2. Compute the limited liability entity tax imposed under KRS 141.0401 on Kentucky gross profits or Kentucky gross receipts; and
 - 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this subsection;
- (b) The amount of the skills training investment credit that the Bluegrass State Skills Corporation has given final approval for under KRS 154.12-2088(6) shall be applied against the net tax computed under paragraph (a)3. of this subsection; and
- (c) The skills training investment credit payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under KRS 154.12-2088(6).
- (4) (a) In the case of an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be taken against the tax imposed by KRS 141.0401 by the approved company, and shall also be apportioned among the partners, members, or shareholders thereof at the same ratio as the partners', members', or shareholders' distributive shares of income are determined for the tax year during which the final authorization resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).
- (b) The amount of the tax credit apportioned to each partner, member, or shareholder that may be claimed in any tax year of the partner, member, or shareholder shall be determined in accordance with the provisions of KRS 154.12-2086.

- (5) (a) In the case of an approved company that is a trust not subject to the tax imposed by KRS 141.040, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).
- (b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.12-2086.
- (6) The Department of Revenue may promulgate administrative regulations in accordance with KRS Chapter 13A adopting forms and procedures for the reporting of the credit allowed in KRS 154.12-2084 to 154.12-2089.

➔Section 91. KRS 141.407 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" shall have the same meaning as set forth in KRS 154.24-010;
 - (b) "Economic development project" shall have the same meaning as economic development project as set forth in KRS 154.24-010;
 - (c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150;
 - (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- (2) An approved company shall determine the tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(14)~~ shall:
 - (a)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, including income from the economic development project;
 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (b)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, excluding net income attributable to the economic development project;
 2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.
- (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or a trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020~~(2)~~.
- (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners or beneficiaries of

the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.

- (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.
 - (d) If the tax computed herein exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
 - (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the economic development project is a totally separate facility:
- (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
- (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under KRS 154.24-010 to 154.24-150.

➔Section 92. KRS 141.414 is amended to read as follows:

- (1) A qualified farming operation which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040 shall:
 - (a) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS~~

- ~~141.010(14)~~, including income from the qualified farming operation's participation in a networking project.
2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the qualified farming operation's participation in a networking project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph;
- (b) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 applies on net income ~~as defined by KRS 141.010(11)~~ or taxable net income ~~as defined by KRS 141.010(14)~~, excluding net income attributable to the qualified farming operation's participation in a networking project;
2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the qualified farming operation's participation in a networking project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph; and
- (c) Be entitled to a tax credit in the amount by which the tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410.
- (2) Notwithstanding any other provisions of this chapter, a qualified farming operation which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to its participation in a networking project at the rates provided in KRS 141.020~~(2)~~, and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
- (3) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (2) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (4) If the networking entity is a separate facility:
- (a) Net income attributable to the project for the purposes of subsections (1), (2), and (3) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the project and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (1) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (5) If the networking project is an expansion to a previously existing farming operation:
- (a) Net income attributable to the entire operation shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the farming operation's participation in the networking project and overhead expenses apportioned to the networking project, and the net income attributable to the networking project for the purposes of subsections (1), (2), and (3) of this section shall be determined by apportioning the separate accounting net income of the entire networking project to the networking project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (1) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross

profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.

- (6) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved farming operation are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the networking project, the approved farming operation shall determine net income, Kentucky gross receipts, or Kentucky gross profits from its participation in the networking project using an alternative method approved by the Department of Revenue.
- (7) The Department of Revenue may promulgate administrative regulations pursuant to KRS Chapter 13A and require the filing of forms designed by the Department of Revenue necessary to effectuate KRS 141.0101 and KRS 141.410 to 141.414 and the allowable income tax credit which an approved farming operation may retain under the provisions of KRS 141.412 and this section.

➔Section 93. KRS 141.415 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" means the same as defined in KRS 154.32-010 or 154.34-010;
 - (b) "Economic development project" means the same as defined in KRS 154.32-010;
 - (c) "Reinvestment project" means the same as defined in KRS 154.34-010;
 - (d) "Tax credit" means the tax credit allowed in KRS 154.34-120 or the credit allowed in KRS 154.32-070, as the case may be;
 - (e) "Kentucky gross receipts" means the same as defined in KRS 141.0401; and
 - (f) "Kentucky gross profits" means the same as defined in KRS 141.0401.
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(1)~~ shall:
 - (a)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, including income from a reinvestment project or economic development project;
 2. Compute the limited liability entity tax imposed under KRS 141.0401 including Kentucky gross profits or Kentucky gross receipts from the reinvestment project or economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (b)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, excluding net income attributable to a reinvestment project or economic development project;
 2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the reinvestment project or economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (c) The tax credit shall be the amount by which the tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.32-070 or 154.34-120, as the case may be.
- (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS

141.040 shall be subject to income tax on the net income attributable to a reinvestment project or economic development project at the rates provided in KRS 141.020~~(2)~~.

- (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
 - (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.32-070 or 154.34-120, as the case may be.
 - (d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
 - (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the reinvestment project or economic development project is a totally separate facility:
- (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the reinvestment project or economic development project is an expansion to a previously existing facility:
- (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the reinvestment project or economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the reinvestment project or economic development project by a formula approved by the department; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the reinvestment project or economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the reinvestment project or economic development project by a formula approved by the department.
- (8) If an approved company can show to the satisfaction of the department that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the reinvestment project or economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the reinvestment project or economic development project using an alternative method approved by the department.
- (9) The department may promulgate administrative regulations and require the filing of forms designed by the department to reflect the intent of KRS 154.34-010 to 154.34-100 and Subchapter 32 of KRS Chapter 154, and the allowable income tax credit which an approved company may retain under KRS 154.34-010 to 154.34-100 or Subchapter 32 of KRS Chapter 154.

➔Section 94. KRS 161.540 is amended to read as follows:

- (1) (a) Effective July 1, 1988, each individual who first becomes a member before July 1, 2008, shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university employees who participate in the Kentucky Teachers' Retirement System shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation.
- (b) Each individual who first becomes a member on or after July 1, 2008, shall contribute to the retirement system ten and eight hundred fifty-five thousandths percent (10.855%) of annual compensation, except that university employees who participate in the Kentucky Teachers' Retirement System shall contribute nine and three hundred seventy-five thousandths percent (9.375%) of annual compensation.
- (c) 1. Effective July 1, 2010, members shall, in addition to those contributions required under paragraphs (a) and (b) of this subsection, make a contribution to the medical insurance fund established under KRS 161.420(5) according to the following schedule:
 - a. For each individual who first became a member of the retirement system before July 1, 2008, a total amount of annual compensation equal to and effective on:

July 1, 2010.....	Twenty-five hundredths percent (.25%)
July 1, 2011.....	One-half percent (0.50%)
July 1, 2012.....	One percent (1.0%)
July 1, 2013.....	One and one-half percent (1.5%)
July 1, 2014.....	Two and twenty-five hundredths percent (2.25%)
July 1, 2015,	
and thereafter.....	Three percent (3.0%) for a total of three and
	seventy-five hundredths percent (3.75%)
	when added to the contributions required
	under KRS 161.420(5)(a); or
 - b. For each individual who first becomes a member of the retirement system on or after July 1, 2008, a total amount of annual compensation equal to and effective on:

July 1, 2013.....	One-half percent (0.50%)
July 1, 2014.....	One and twenty-five hundredths percent (1.25%)
July 1, 2015,	
and thereafter.....	Two percent (2.0%) for a total of three and
	seventy-five hundredths percent (3.75%)
	when added to the contributions required
	under KRS 161.420(5)(a)
2. Notwithstanding subparagraph 1. of this paragraph, members employed by any employer identified in KRS 161.220(4)(b) or (n) shall contribute, as a percentage of their total annual compensation, the actuarial equivalent of the percentage contributed by members under subparagraph 1. of this paragraph, not to exceed the percentages established under the schedules set forth in subparagraph 1. of this paragraph. The actuarial equivalent to be contributed under this subsection shall be determined by the retirement system's actuary. These contributions shall be in lieu of those contributions required under subparagraph 1. of this paragraph.
3. When the medical insurance fund established under KRS 161.420(5) achieves a sufficient prefunded status as determined by the retirement system's actuary, the board of trustees shall recommend to the General Assembly that the contributions required under subparagraphs 1. and 2. of this paragraph shall, in an actuarially accountable manner, be either decreased, suspended, or eliminated.

- (d) Payments authorized by statute that are made to retiring members, who became members of the system before July 1, 2008, for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.
- (2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(40)~~. The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

➔SECTION 95. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *Beginning on the effective date of this Act, the authority shall not accept any new applications or make preliminary approvals of a revitalization agreement until on or after July 1, 2022.*
- (2) *By July 1, 2019, the authority and the Department of Revenue shall jointly provide a report to the Interim Joint Committee on Appropriations and Revenue for each project approved under this subchapter. The report shall contain the following information:*
 - (a) *The name of each approved company and the location of each economic revitalization project;*
 - (b) *The amount of approved costs for each economic revitalization project;*
 - (c) *The date the agreement was approved;*
 - (d) *Whether an assessment fee authorized by KRS 154.26-100 was a part of the agreement;*
 - (e) *The number of employees employed in manufacturing, the number of employees employed in coal mining and processing, or the number of employees employed in agribusiness operations;*
 - (f) *Whether the project was a supplemental project; and*
 - (g) *By taxable year, the amount of tax credit claimed on the taxpayer's return, any amount denied by the department, and the amount of any tax credit remaining to be carried forward.*

➔Section 96. KRS 141.068 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;
 - (b) "Investor" has the same meaning as set forth in KRS 154.20-254;
 - (c) "Investment fund" has the same meaning as set forth in KRS 154.20-254;
 - (d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-254; and
 - (e) "Tax credit" means the credits provided for in KRS 154.20-258.
- (2) (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under KRS 154.20-258 against the tax due computed as provided by KRS 141.020 or 141.040, respectively, and against the tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.

- (b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of KRS 154.20-258.
- (3) (a) In the case of an investor that is a pass-through entity not subject to the tax imposed by KRS 141.040, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be taken by the pass-through entity against the limited liability entity tax imposed by KRS 141.0401, and shall also be apportioned among the partners, members, or shareholders at the same ratio as the partners', members', or shareholders' distributive shares of income are determined for the tax year during which the amount of the credit is certified by the authority.
- (b) The amount of the tax credit apportioned to each partner, member, or shareholder that may be claimed in any tax year of the partner, member, or shareholder shall be determined in accordance with the provisions of KRS 154.20-258.
- (4) (a) In the case of an investor that is a trust not subject to the tax imposed by KRS 141.040, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.
- (b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.20-258.
- (5) The Department of Revenue shall promulgate administrative regulations under KRS Chapter 13A to adopt procedures for the administration of the credits authorized by KRS 154.20-258.
- (6) *In order for the General Assembly to evaluate the fulfillment of the purposes stated in Section 97 of this Act, the department shall work jointly with the Cabinet for Economic Development to provide a report detailing each investment fund agreement entered into by the cabinet. The report shall be submitted to the Interim Joint Committee on Appropriations and Revenue on or before May 1, 2019, and contain the following information:*
 - (a) *The date the agreement was entered into by the cabinet with the investment fund manager;*
 - (b) *The name of the investment fund manager and the name of the investment fund;*
 - (c) *The primary business location of the investment fund;*
 - (d) *The total number of investment funds, the number of investors for each fund, the amount of committed cash contributions to each investment fund, and the total qualified investments made by each investment fund, including initial and subsequent investments, for each small business;*
 - (e) *A list detailing each investor within each investment fund, the amount of investment made by each investor, and the amount of tax credit awarded each investor;*
 - (f) *Whether the authority has suspended the availability of any credits, terminated any agreements, or pursued any other remedy because the investment fund manager failed to comply with the agreement;*
 - (g) *By taxable year, the amount of tax credit claimed by each investor by type of tax, including income tax, any taxes imposed on financial institutions, or insurance taxes;*
 - (h) *The number of small businesses that are active, inactive, or closed that have received investments from an investment fund;*
 - (i) *The number and location of each new small business established or expanded;*
 - (j) *The number and location of each new job created;*
 - (k) *The number of new products and technologies created; and*
 - (l) *The total amount of tax credit awarded for each fiscal year.*
- (7) *If either the department or the Cabinet for Economic Development does not currently have the data to fulfill the reporting requirement of subsection (6) of this section, the department and the cabinet shall work jointly to obtain the data in an expedient manner to provide the report on or before the May 1, 2019, report date.*

➔Section 97. KRS 154.20-250 is amended to read as follows:

(1) ***Beginning on the effective date of this Act, the authority shall not accept any new applications or make preliminary approvals for the Kentucky Investment Fund until on or after July 1, 2022.***

(2) The purposes of KRS 154.20-250 to 154.20-284 are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small businesses in Kentucky, to provide additional jobs, and to encourage the development of new products and technologies in the state through capital investments. It is the intent of KRS 154.20-250 to 154.20-284 to give investment preference to Kentucky small businesses showing a potential for rapid growth. Insofar as possible, any investment made in a Kentucky small business under the provisions of KRS 154.20-250 to 154.20-284 shall be used by that business to leverage additional capital investments from other sources.

➔Section 98. KRS 141.396 is amended to read as follows:

(1) As used in this section:

- (a) "Authority" has the same meaning as in KRS 154.20-230;
- (b) "Qualified investor" has the same meaning as in KRS 154.20-230;
- (c) "Qualified small business" has the same meaning as in KRS 154.20-230; and
- (d) "Taxpayer" means an individual subject to the tax imposed by KRS 141.020, who has either:
 - 1. Received a credit from the authority pursuant to KRS 154.20-236; or
 - 2. Received a credit through a valid transfer allowed under this section from a qualified investor that was originally awarded the credit.

(2) For taxable years beginning on or after January 1, 2015, there is hereby created the angel investor tax credit. The credit shall be nonrefundable, and shall apply against the tax imposed by KRS 141.020. The ordering of the credit shall be as provided in KRS 141.0205.

(3) A qualified investor may seek a credit by applying to the authority pursuant to KRS 154.20-236.

(4) The maximum amount of credit that may be claimed by a taxpayer in any taxable year shall not exceed fifty percent (50%) of the total amount of credit awarded or transferred to the taxpayer.

(5) Any amount of credit that a taxpayer is unable to utilize during a taxable year may be carried forward for use in a succeeding taxable year for a period not to exceed fifteen (15) years. Any amount of credit not used within fifteen (15) years shall be lost. No amount of credit may be carried back by any taxpayer.

(6) The credit shall not apply to any liability a taxpayer may have for interest, penalties, past due taxes, or any other additions to the taxpayer's tax liability. The holder of the credit shall assume any and all liabilities and responsibilities of the credit.

(7) A credit may be transferred by a qualified investor to any individual taxpayer. A qualified investor making a transfer shall give written notice to the department and shall provide any other information required by the department, in the manner prescribed by the department. Any transferred credit shall be subject to the original timeframes and requirements established by this section and KRS 154.20-230 to 154.20-240 as if held by the qualified investor.

(8) To receive the credit, a taxpayer shall claim the credit on his or her return in the manner prescribed by the department.

(9) The department shall recapture any portion, or the full amount, of a credit upon notification from the authority that a recapture is required pursuant to KRS 154.20-240.

(10) ***In order for the General Assembly to evaluate the fulfillment of the purposes stated in Section 99 of this Act, the department and the Cabinet for Economic Development shall work jointly to submit the following information to the Interim Joint Committee on Appropriations and Revenue on or before May 1, 2019, related to each taxable year that an angel investor credit is claimed on a return:***

- (a) ***The number of qualified small businesses certified by the authority;***
- (b) ***The demographics of each qualified small business, including:***
 - 1. ***The net worth of the qualified small business;***
 - 2. ***The qualified activity the qualified small business is actively and principally engaged in within the Commonwealth;***

3. *The number of employees of the qualified small business;*
4. *The location of the assets, operations, and employees of the qualified small business; and*
5. *The aggregate amount of qualified investments received by the qualified small business;*
- (c) *A list detailing each qualified investor certified by the authority, the amount of investment made by each qualified investor, the date each qualified investment is made by the qualified investor, and the amount of tax credit awarded each investor;*
- (d) *By taxable year, the amount of tax credit claimed by each investor and the amount of credit available to be claimed in future taxable years;*
- (e) *The number of qualified small businesses that are active, inactive, or closed that have received qualified investments;*
- (f) *The number of qualified small businesses that have established a location in the Commonwealth and the number that have expanded operations, the number and location of each new job created, a description of each development of new products and technologies in the Commonwealth, and the field of operation for that growth, including knowledge-based, high-tech, or research and development; and*
- (g) *The total amount of tax credit awarded for each fiscal year.*
- (11) *If either the department or the Cabinet for Economic Development does not currently have the data to fulfill the reporting requirement of subsection (10) of this section, the department and the cabinet shall work jointly to obtain the data in an expedient manner to provide the report on or before the May 1, 2019, report date.*

➔Section 99. KRS 154.20-232 is amended to read as follows:

- (1) (a) *Beginning on the effective date of this Act, the authority shall not accept any new applications for the Kentucky Angel Investment Act until on or after July 1, 2022.*
- (b) KRS 154.20-230 to 154.20-240 shall be known as the "Kentucky Angel Investment Act."
- (2) The purpose of KRS 141.396 and 154.20-230 to 154.20-240 is to encourage capital investment in the Commonwealth by individual investors that will further the establishment or expansion of small businesses, create additional jobs, and foster the development of new products and technologies, by providing tax credits for certain investments in small businesses located in the Commonwealth, operating in the fields of knowledge-based, high-tech, and research and development, and showing a potential for rapid growth.
- (3) To participate in the program created by KRS 141.396 and 154.20-230 to 154.20-240:
 - (a) Small businesses and individual investors shall request certification from the authority pursuant to KRS 154.20-236. To be qualified, the small businesses and individual investors shall fulfill the requirements outlined in KRS 154.20-234; and
 - (b) Once certified, qualified investors may make investments in qualified small businesses, and may apply to the authority for a credit in return for making the investment if that investment qualifies under KRS 154.20-234.
- (4) Any qualified investment made in a qualified small business under KRS 154.20-230 to 154.20-240 shall be used by that business, insofar as possible, to leverage additional capital investments from other sources.

➔Section 100. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Department of Revenue.

- (1) The department shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and department employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
- (2) The department shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the department. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other

required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the department distributed to the public.

- (3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the department. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.
- (4) The department shall perform audits and conduct conferences and hearings only at reasonable times and places.
- (5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the department. The department may make similar audio recordings if prior written notice is given to the taxpayer or if the taxpayer records the conference or hearing. The taxpayer shall be entitled to a copy of this department recording or a transcript as provided in KRS 61.874.
- (6) If any taxpayer's failure to submit a timely return or payment to the department is due to the taxpayer's reasonable reliance on written advice from the department, the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the department and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the department did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the department's earlier written advice no longer valid.
- (7) Taxpayers shall have the right to receive a copy of any audit of the department by the Auditor of Public Accounts relating to the department's compliance with the provisions of KRS 131.041 to 131.081.
- (8) The department shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.
- (9)
 - (a) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating:
 1. His or her inability to pay in full; and
 2. That the agreement will facilitate collection by the department of the amounts owed.
 - (b) The department may modify or terminate an installment payment agreement and may pursue statutory remedies against the taxpayer if it determines that:
 1. The taxpayer has not complied with the terms of the agreement, including minimum payment requirements established by the agreement;
 2. The taxpayers' financial condition has sufficiently changed;
 3. The taxpayer fails to provide any requested financial condition update information;
 4. The taxpayer gave false or misleading information in securing the agreement; or
 5. The taxpayer fails to timely report and pay any other tax due the Commonwealth.
 - (c) The department shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the department has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.
- (10) The department shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Department of Revenue personnel.
- (11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the department in writing and provides a copy of the extension at the time and in the manner which the department may require.

- (12) The department shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position. When the department releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.
- (13) (a) The department shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.
- (b) *No arrangement or contract shall be entered into for the service:*
1. *Of examining a taxpayer's books and records;*
 2. *Of collecting a tax from a taxpayer; or*
 3. *For legal representation of the department;*
- if any part of the compensation or other benefits paid or payable for the service is contingent upon or otherwise related to the amount of tax, interest, fee, or penalty assessed against or collected from the taxpayer. Any such arrangement or contract shall be void and unenforceable.*
- (14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Kentucky Claims Commission for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by department employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the department. In the awarding of damages pursuant to this subsection, the commission shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the commission, the department shall be reimbursed by the taxpayer for its costs in defending the action. Any claims brought pursuant to this subsection shall be in accordance with KRS 49.040 to 49.180.
- (15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the department to any person or be intentionally and without authorization inspected by any present or former commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

➔Section 101. KRS 49.250 is amended to read as follows:

- (1) Any party aggrieved by any final order of the commission, except on appeals from a county board of assessment appeals, may appeal to the Franklin Circuit Court or to the Circuit Court of the county in which the party aggrieved resides or conducts his place of business in accordance with KRS Chapter 13B. Any final orders entered on the rulings of a county board of assessment appeals may be appealed in like manner to the Circuit Court of the county in which the appeal originated.
- (2) If the appeal is from an order sustaining a tax assessment, collection of the tax ~~shall~~**may** be stayed by the filing of a ***petition or an appeal to any court. Full payment of the tax or a supersedeas bond is not required to appeal an order sustaining from a tax assessment***~~supersedeas bond in the manner directed by the Rules of Civil Procedure, or by payment of the tax as provided in KRS 134.580.~~

➔Section 102. KRS 131.190 is amended to read as follows:

- (1)~~(a)~~ No present or former commissioner or employee of the department~~of Revenue~~, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.
- (2)~~(b)~~ The prohibition established by ***subsection (1)***~~paragraph (a)~~ of this ***section***~~subsection does~~ not extend to:

- (a)~~{1-}~~ Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
 - (b)~~{2-}~~ Any matter properly entered upon any assessment record, or in any way made a matter of public record;
 - (c)~~{3-}~~ Furnishing any taxpayer or his properly authorized agent with information respecting his own return;
 - (d)~~{4-}~~ Testimony provided by the commissioner or any employee of the department~~{-of Revenue}~~ in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;
 - (e)~~{5-}~~ Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820~~{(1)}~~, or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820~~{(2)}~~, that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2)~~{(21)}~~. The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;
 - (f)~~{6-}~~ Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820~~{(1)}~~. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this ~~paragraph~~~~{subparagraph}~~. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10);~~-or-~~
 - (g)~~{7-}~~ Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817;
 - (h) *Statistics of gasoline and special fuels gallonage reported to the department under KRS 138.210 to 138.448;*
 - (i) *Providing any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617 to applicable school districts on a confidential basis; or*
 - (j) *Providing information to the Legislative Research Commission under:*
 - 1. *KRS 139.519 for purposes of the sales and use tax refund on building materials used for disaster recovery;*
 - 2. *KRS 141.436 for purposes of the energy efficiency products credits;*
 - 3. *KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY STAR manufactured home credits;*
 - 4. *Section 62 of this Act for purposes of the film industry incentives;*
 - 5. *Section 95 of this Act for purposes of the Kentucky revitalization tax credits and the job assessment fees;*
 - 6. *Section 96 of this Act for purposes of the Kentucky investment fund;*
 - 7. *Section 98 of this Act for purposes of the angel investor tax credit;*
 - 8. *Section 103 of this Act for purposes of the distilled spirits credit; and*
 - 9. *Section 115 of this Act for purposes of the inventory credit.*
- (3)~~{(2)}~~ The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return.
- ~~{(3)} Statistics of tax paid gasoline gallonage reported monthly to the department of Revenue under the gasoline excise tax law may be made public by the department.~~
- (4) Access to and inspection of information received from the Internal Revenue Service is for department~~{-of Revenue}~~ use only, and is restricted to tax administration purposes.~~{-Notwithstanding the provisions of this section to the contrary,-}~~ Information received from the Internal Revenue Service shall not be made available to

any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department ~~of Revenue~~, or any other person.

- (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Department of Revenue under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.
- (6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.
- ~~{(7) Notwithstanding any other provision of the Kentucky Revised Statutes, The department may divulge to the applicable school districts on a confidential basis any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617.}~~

➔Section 103. KRS 141.389 is amended to read as follows:

- (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each taxpayer paying the distilled spirits ad valorem tax as follows:
 - 1. For taxable years beginning on or after January 1, 2015, and before December 31, 2015, the credit shall be equal to twenty percent (20%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 - 2. For taxable years beginning on or after January 1, 2016, and before December 31, 2016, the credit shall be equal to forty percent (40%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 - 3. For taxable years beginning on or after January 1, 2017, and before December 31, 2017, the credit shall be equal to sixty percent (60%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 - 4. For taxable years beginning on or after January 1, 2018, and before December 31, 2018, the credit shall be equal to eighty percent (80%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis; and
 - 5. For taxable years beginning on or after January 1, 2019, the credit shall be equal to one hundred percent (100%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis.
- (b) The credit shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205.
- (2) The amount of distilled spirits credit allowed under subsection (1) of this section shall be used only for capital improvements at the premises of the distiller licensed pursuant to KRS Chapter 243. As used in this subsection, "capital improvement" means any costs associated with:
 - (a) Construction, replacement, or remodeling of warehouses or facilities;
 - (b) Purchases of barrels and pallets used for the storage and aging of distilled spirits in maturing warehouses;
 - (c) Acquisition, construction, or installation of equipment for the use in the manufacture, bottling, or shipment of distilled spirits;
 - (d) Addition or replacement of access roads or parking facilities; and
 - (e) Construction, replacement, or remodeling of facilities to market or promote tourism, including but not limited to a visitor's center.
- (3) The distilled spirits credit allowed under subsection (1) of this section:

- (a) May be accumulated for multiple taxable years;
 - (b) Shall be claimed on the return of the taxpayer filed for the taxable year during which the credits were used pursuant to subsection (2) of this section; and
 - (c) Shall not include:
 - 1. Any delinquent tax paid to the Commonwealth; or
 - 2. Any interest, fees, or penalty paid to the Commonwealth.
- (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital improvements required by subsection (2) of this section shall be completed and specifically associated with the credit allowed on the return.
- (b) The amount of distilled spirits credit allowed shall be recaptured if the capital improvement associated with the credit is sold or otherwise disposed of prior to the exhaustion of the useful life of the asset for Kentucky depreciation purposes.
- (c) If the allowed credit is associated with multiple capital improvements, and not all capital improvements are sold or otherwise disposed of, the distilled spirits credit shall be prorated based on the cost of the capital improvement sold over the total cost of all improvements associated with the credit.
- (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.
- (6) The department may promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the allowable credit under this section, require the filing of forms designed by the department, and require specific information for the evaluation of the credit taken by any taxpayer.
- (7) ~~Notwithstanding KRS 131.190,~~ No later than September 1, 2016, and annually thereafter, the department shall report to the Interim Joint Committee on Appropriations and Revenue:
- (a) The name of each taxpayer taking the credit permitted by subsection (1) of this section;
 - (b) The amount of credit taken by that taxpayer; and
 - (c) The type of capital improvement made for which the credit is claimed.

➔Section 104. KRS 131.020 is amended to read as follows:

- (1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:
- (a) Office of the Commissioner, which shall consist of:
 - 1. The Division of Protest Resolution, headed by a division director who shall report directly to the commissioner. The division shall administer the protest functions for the department from office resolution through court action; and
 - 2. The Division of Taxpayer Ombudsman, headed by a division director who shall report to the commissioner. The division shall perform those duties set out in KRS 131.083;
 - (b) Office of Tax Policy and Regulation, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for:
 - 1. Providing oral and written technical advice on Kentucky tax law;
 - 2. Drafting proposed tax legislation and regulations;
 - 3. Testifying before legislative committees on tax matters;
 - 4. Analyzing tax publications;
 - 5. Providing expert witness testimony in tax litigation cases;
 - 6. Providing consultation and assistance in protested tax cases; and
 - 7. Conducting training and education programs;

- (c) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:
 - 1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;
 - 2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments, including protest resolution, and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and
 - 3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;
 - (d) Office of Property Valuation, headed by an executive director who shall report directly to the commissioner. The office shall consist of the:
 - 1. Division of Local Support, which shall be responsible for providing supervision, assistance, and training to the property valuation administrators and sheriffs within the Commonwealth;
 - 2. Division of State Valuation, which shall be responsible for providing assessments of public service companies and motor vehicles, and providing assistance to property valuation administrators and sheriffs with the administration of tangible and omitted property taxes within the Commonwealth; and
 - 3. Division of Minerals Taxation and Geographical Information System Services, which shall be responsible for providing geographical information system mapping support, ensuring proper filing of severance tax returns, ensuring consistency of unmined coal assessments, and gathering and providing data to properly assess minerals to the property valuation administrators within the Commonwealth;
 - (e) Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
 - 1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
 - 2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;
 - (f) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
 - 1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
 - 2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and
 - (g) Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.
- (2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of

litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

- (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
- (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(3)~~[(2)]~~ to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.
- (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

➔Section 105. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) ~~{1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);~~
 - ~~2. For taxable years beginning after December 31, 2006, }~~The limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401,~~[141.402,]~~ 141.403, 141.407, 141.415, **and** 154.12-2088~~[, and 154.27-080];~~
 - (c) The qualified farming operation credit permitted by KRS 141.412;
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (e) The health insurance credit permitted by KRS 141.062;
 - (f) The tax paid to other states credit permitted by KRS 141.070;
 - (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - ~~(j) The coal incentive credit permitted under KRS 141.0405;~~
 - ~~(k)~~ The research facilities credit permitted ~~by~~~~[under]~~ KRS 141.395;
 - ~~(k)~~~~(l)~~ The employer High School Equivalency Diploma program incentive credit permitted ~~by~~~~[under]~~ KRS 164.0062;
 - ~~(l)~~~~(m)~~ The voluntary environmental remediation credit permitted by KRS 141.418;
 - ~~(m)~~~~(n)~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - ~~(n)~~~~(o)~~The environmental stewardship credit permitted by KRS 154.48-025;
 - ~~(p)~~ The clean coal incentive credit permitted by KRS 141.428;
 - ~~(o)~~~~(q)~~ The ethanol credit permitted by KRS 141.4242;
 - ~~(p)~~~~(r)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
 - ~~(q)~~~~(s)~~ The energy efficiency credits permitted by KRS 141.436;
 - ~~(r)~~~~(t)~~The railroad maintenance and improvement credit permitted by KRS 141.385;
 - ~~(s)~~~~(u)~~ The Endow Kentucky credit permitted by KRS 141.438;

- (t)~~(v)~~ The New Markets Development Program credit permitted by KRS 141.434;
- (u)~~(w)~~ ~~The food donation credit permitted by KRS 141.392;~~
- ~~(x)~~ The distilled spirits credit permitted by KRS 141.389;~~and~~
- (v)~~(y)~~ The angel investor credit permitted by KRS 141.396; **and**
- (w) ***The inventory credit permitted by Section 115 of this Act.***
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- The individual credits permitted by KRS 141.020~~(3)~~;
 - The credit permitted by KRS 141.066;
 - The tuition credit permitted by KRS 141.069; **and**
 - The household and dependent care credit permitted by KRS 141.067~~;~~ **and**
 - ~~The new home credit permitted by KRS 141.388.~~
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- The individual withholding tax credit permitted by KRS 141.350;
 - The individual estimated tax payment credit permitted by KRS 141.305;
 - ~~For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);~~
 - ~~(d)~~ The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - ~~(d)(e)~~ The film industry tax credit **permitted**~~allowed~~ by KRS 141.383.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, ~~141.402,~~ 141.403, 141.407, 141.415, **and** 154.12-2088~~, and 154.27-080~~;
 - The qualified farming operation credit permitted by KRS 141.412;
 - The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - The health insurance credit permitted by KRS 141.062;
 - The unemployment credit permitted by KRS 141.065;
 - The recycling or composting equipment credit permitted by KRS 141.390;
 - The coal conversion credit permitted by KRS 141.041;
 - The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - ~~(j)~~ ~~The coal incentive credit permitted under KRS 141.0405;~~
 - ~~(k)~~ The research facilities credit permitted ~~by~~~~under~~ KRS 141.395;
 - ~~(k)(4)~~ The employer High School Equivalency Diploma program incentive credit permitted ~~by~~~~under~~ KRS 164.0062;
 - ~~(l)(m)~~ The voluntary environmental remediation credit permitted by KRS 141.418;

- ~~(m)(a)}~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - ~~(n)(c)}~~ ~~The environmental stewardship credit permitted by KRS 154.48-025;~~
 - ~~(p)}~~ The clean coal incentive credit permitted by KRS 141.428;
 - ~~(o)(q)}~~ The ethanol credit permitted by KRS 141.4242;
 - ~~(p)(r)}~~ The cellulosic ethanol credit permitted by KRS 141.4244;
 - ~~(q)(s)}~~ The energy efficiency credits permitted by KRS 141.436;
 - ~~(r)(t)}~~ The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - ~~(s)(u)}~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
 - ~~(t)(v)}~~ The railroad expansion credit permitted by KRS 141.386;
 - ~~(u)(w)}~~ The Endow Kentucky credit permitted by KRS 141.438;
 - ~~(v)(x)}~~ The New Markets Development Program credit permitted by KRS 141.434;
 - ~~(w)(y)}~~ ~~The food donation credit permitted by KRS 141.392; and~~
 - ~~(z)}~~ The distilled spirits credit permitted by KRS 141.389; **and**
 - (x) The inventory credit permitted by Section 115 of this Act.**
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (c) The film industry tax credit **permitted by** ~~allowed in~~ KRS 141.383.
- ➔Section 106. KRS 131.110 is amended to read as follows:
- (1) (a) The Department of Revenue shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the department within:
 - 1. Forty-five (45) days from the date of notice, **for assessments issued prior to July 1, 2018; and**
 - 2. **Sixty (60) days from the date of notice, for assessments issued on or after July 1, 2018.**
 - (b) Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 49.220.
 - (c) 1. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made.
 - 2. Upon written request, the department may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable.
 - 3. The refusal of the extension may be reviewed in the same manner as a protested assessment.
- (2) After a timely protest has been filed, the taxpayer may request a conference with the department. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.
 - (3) After considering the taxpayer's protest, including any matters presented at the final conference, the department shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the department, generally state the issues in controversy, the department's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Claims Commission.
 - (4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the department shall issue such ruling within thirty (30) days from the date the request is received by the department.
 - (5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky Claims Commission pursuant to the provisions of KRS 49.220.

➔Section 107. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

- (1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars (\$10).
- (2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the department or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars (\$10).
- (3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the department that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars (\$25).
- (4) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the department, the department may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars (\$100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.
- (5) If any taxpayer fails or refuses to pay within ~~sixty (60)~~~~forty-five (45)~~ days of the due date any tax assessed by the department which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.
- (6) Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the department within the time required by law shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars (\$50).
- (7) If any tax assessed by the department is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.
- (8) If any tax assessed by the department is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.
- (9) If any check tendered to the department is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the department, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars (\$10) nor more than one hundred dollars (\$100). If the taxpayer who tendered the check shows to the department's satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the department shall waive the penalty.

- (10) Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).
- (11) The penalties levied pursuant to subsection (5) of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky Claims Commission or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.
- (12) Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.
- (13) All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the department shall likewise be liable for all penalties and interest applicable thereto.

➔Section 108. KRS 131.650 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary, the department may publish a list or lists of taxpayers that owe delinquent taxes or fees administered by the Department of Revenue, and that meet the requirements of KRS 131.652.
- (2) For purposes of this section, a taxpayer may be included on a list if:
 - (a) The taxes or fees owed remain unpaid at least ~~sixty (60)~~~~forty-five (45)~~ days after the dates they became due and payable; and
 - (b) A tax lien or judgment lien has been filed of public record against the taxpayer before notice is given under KRS 131.654.
- (3) In the case of listed taxpayers that are business entities, the Department of Revenue may also list the names of responsible persons assessed pursuant to KRS 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected from publication by subsection (2) of this section, and for whom the requirements of KRS 131.652 are satisfied with regard to the personal assessment.
- (4) Before any list is published under this section, the department shall document that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

➔Section 109. KRS 132.485 is amended to read as follows:

- (1) (a) Except as otherwise provided in paragraph (b) of this subsection, the registration of a motor vehicle with a county clerk in order to operate it or permit it to be operated upon the highways of the state shall be deemed consent by the registrant for the motor vehicle to be assessed by the property valuation administrator from a standard manual prescribed by the department for valuing motor vehicles for assessment unless:
 - 1. The registrant appears before the property valuation administrator to assess the vehicle; or
 - 2. The motor vehicle is twenty (20) years old or older, in which case paragraph (b) of this subsection applies regarding its valuation.

The standard value of motor vehicles shall be the average trade-in value prescribed by the valuation manual unless information is available that warrants any deviation from the standard value.
- (b) In the case of motor vehicles that are twenty (20) years old or older:
 - 1. It shall not be presumed that a vehicle has been maintained in, or restored to, the original factory or otherwise classic condition or that its value has increased over the previous year;
 - 2. In assessing motor vehicles under this paragraph and calculating the taxes due thereon, through the AVIS or otherwise, if the registrant does not appear before the property valuation administrator to assess the vehicle, the standard value shall be as follows:
 - a. The actual valuation of the vehicle as was assessed in the vehicle's nineteenth year, if the vehicle was assessed for taxation in the Commonwealth in that year; or

- b. The average trade-in value prescribed by the applicable edition of the valuation manual for the vehicle in its nineteenth year, if the vehicle was not assessed for taxation in the Commonwealth in that year;

reduced by ten percent (10%) annually for each year beyond nineteen (19) years; and

- 3. In the case of any motor vehicle for which the assessment procedure provided in subparagraph 2.b. of this paragraph would apply but cannot be carried out because the applicable edition of the valuation manual is unavailable, the property valuation administrator shall conduct an assessment of the vehicle to determine the value thereof for the given taxable year. The assessment under this subparagraph may be done in person if the vehicle's owner presents the vehicle at the property valuation administrator's office, or the assessment may be done through a review of photographs and other documentary evidence. In subsequent years, that valuation shall be reduced by ten percent (10%) annually.
- (2) The registration of a recreational vehicle with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant thereof for the recreational vehicle to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the department for valuing recreational vehicles for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.
- (3) The registration of a motor vehicle on or before the date that the registration of the vehicle is required is prima facie evidence of ownership on January 1.
- (4) When a motor vehicle is purchased in one (1) year, but registration takes place after January 1 of the following year through no fault of the owner, the department shall assess the motor vehicle and shall send notice of the assessment to the January 1 owner in accordance with KRS 186A.035. If the month of registration has passed for the current year, the assessment shall be due and payable if not protested to the department within ~~sixty (60)~~~~forty five (45)~~ days from the date of the notice. Payments made after the due date shall carry the normal penalty and interest for motor vehicles.
- (5) This section does not apply to motor vehicles or recreational vehicles owned and operated by public service companies, common carriers, or agencies of the state and federal governments.

➔Section 110. KRS 136.180 is amended to read as follows:

- (1) The Department of Revenue shall, immediately after fixing the assessed value of the operating property and other property of a public service corporation for taxation, notify the corporation of the valuation and the amount of assessment for state and local purposes. When the valuation has been finally determined, the department shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount of property liable for county, city, or district tax.
- (2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.
- (3) The Department of Revenue shall compute annually a multiplier for use in establishing the local tax rate for the operating property of railroads or railway companies that operate solely within the Commonwealth. The applicable local tax rates on the operating property shall be adjusted by the multiplier. The multiplier shall be calculated by dividing the statewide locally taxable business tangible personal property by the total statewide business tangible personal property.
- (4) The Department of Revenue shall annually calculate an aggregate local rate for each local taxing district to be used in determining local taxes to be collected for railroad carlines. The rate shall be the statewide tangible tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment. Effective January 1, 1994, state and local taxes on railroad carline property shall become due ~~sixty (60)~~~~forty five (45)~~ days from the date of notice and shall be collected directly by the Department of Revenue. The local taxes collected by the Department of Revenue shall be distributed to each local taxing district levying a tax on railroad carlines based on the

statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Department of Revenue by any local taxing district under the provisions of subsection (5) of this section shall be deducted.

- (5) The certification of valuation shall be filed by each county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value certified by the department shall pay an annual fee to the department which represents an allocation of department operating and overhead expenses incurred in generating the valuations. This fee shall be determined by the department and shall apply to valuations for tax periods beginning on or after December 31, 1981.

➔Section 111. KRS 136.1804 is amended to read as follows:

- (1) The department shall notify the corporation of the assessed value of its watercraft each year, as soon as possible after rates set by local authorities are provided to the department. The corporation shall have *sixty* ~~(60) [forty five (45)]~~ days from the date of the department's notice of assessment to protest as provided by KRS 131.110.
- (2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The corporation shall pay to the department all state and local taxing district taxes due on the undisputed value of its watercraft as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the corporation shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date the tax would have become due if the assessment had not been appealed. The provisions of KRS 134.015(6) shall apply to the tax bill.
- (3) The state and local taxing district taxes on the watercraft are due *sixty* ~~(60) [forty five (45)]~~ days from the date of notice of assessment. The tangible property taxes on watercraft shall be collected in accordance with the provisions of KRS Chapter 134.
- (4) The state rate of taxation on watercraft shall be forty-five cents (\$0.45) upon each one hundred dollars (\$100) of assessed value of the watercraft.
- (5) The department shall annually calculate an aggregate local rate, which shall be imposed upon each one hundred dollars (\$100) of assessed value of the watercraft.
 - (a) The aggregate local rate shall be the sum of each local personal property tax rate for each local taxing district multiplied by a fraction, the numerator of which shall be the length of the navigable waterways in the local taxing district and the denominator of which shall be the total of the length of all navigable waterways in this state. Both the numerator and the denominator shall be adjusted, if necessary, by paragraph (b) of this subsection.
 - (b) For purposes of computing the local property tax rate in paragraph (a) of this section, the length of the navigable waterways of the Green River shall be reduced by fifty percent (50%) and the length of the navigable waterways of the Kentucky River shall be reduced by seventy-five percent (75%).
- (6) The watercraft taxes collected for local taxing districts by the department shall be distributed to each local taxing district based upon the local taxing district's fractional portion of the amount calculated in subsection (5) of this section.
- (7) Prior to distribution of taxes to local taxing districts, the department shall retain an administrative fee of one percent (1%) of the amount due each district. The fee imposed by this subsection shall have no effect upon the discount provided to taxpayers pursuant to KRS 134.015.

➔Section 112. KRS 136.1877 is amended to read as follows:

The provisions of this section shall apply to assessments made prior to January 1, 2007.

- (1) The Department of Revenue shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the department in the manner outlined in KRS 136.1873 shall have *sixty* ~~(60) [forty five (45)]~~ days from the date of the department's notice of the tentative assessment to protest as provided by KRS 131.110.
- (2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS

131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.

- (3) The state and local taxes on the property are due ~~sixty (60)~~~~forty five (45)~~ days from the date of notice and shall be collected directly by the Department of Revenue.
- (4) The Department of Revenue shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.
- (5) The local taxes collected by the Department of Revenue shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Department of Revenue by any local taxing district under the provisions of KRS 136.180(5) shall be deducted.

➔Section 113. KRS 136.188 is amended to read as follows:

- (1) Notwithstanding KRS 132.487, any truck, tractor, or bus which is operated on a route or as part of a system that is partly within and partly outside Kentucky shall be subject to an annual fee at the time the vehicle is registered with and the registration fee is paid to the Transportation Cabinet pursuant to KRS 186.020 and 186.050(3) and (13). The fee shall be imposed on the vehicle's owner or the owner's legal designee as of January 1 of each year. Such payment shall be made to the Transportation Cabinet either directly, in the case of a vehicle based in Kentucky, or indirectly, through the International Registration Plan, in the case of a vehicle based outside of Kentucky.
- (2) The fee imposed by subsection (1) of this section replaces the state and local ad valorem property tax the Department of Revenue previously imposed and centrally collected against trucks, tractors, and buses operated on a route or as part of a system that is partly within and partly outside Kentucky. The fee imposed by subsection (1) of this section shall not be construed as a fee imposed upon the registration, operation, or use of the vehicles on public highways. The Department of Revenue shall use the following method for determining the rate for fixing the assessed value of the property and for determining the annual fee amount:
 - (a) The Department of Revenue shall determine the assessed value on an annual basis by multiplying the purchase price of the truck, tractor, or bus by a depreciation value expressed as a percentage of the original cost from an authoritative source that the Department of Revenue prescribes by promulgation of an administrative regulation;
 - (b) The Department of Revenue shall determine an aggregate state and local rate on an annual basis. The state rate shall be the weighted average commercial and industrial tangible personal property tax rate, and the local rate shall be determined using the method set forth in KRS 136.180(3) and (4);
 - (c) The Department of Revenue shall determine the amount subject to the annual fee by multiplying the total assessed value of all vehicles by an apportionment factor. The apportionment factor shall be determined as provided in KRS 186.050(13)(a); and
 - (d) The annual fee shall be determined by multiplying the amount subject to the annual fee by the rate determined in paragraph (b) of this subsection.

The Department of Revenue shall provide the Transportation Cabinet with the information needed to collect the fee.

- (3) The Transportation Cabinet shall forward the money it collects from the fee imposed by subsection (1) of this section to the Department of Revenue on a monthly basis. The Department of Revenue shall divide and distribute the money among the state, counties, cities, urban-counties, charter counties, consolidated local governments, school districts, and special taxing districts in the same manner as the Department of Revenue divided and distributed the state and local ad valorem property tax previously imposed and centrally collected.
- (4) Pick-up and delivery vehicles operating from a terminal within this state and vehicles that do not leave the state in the normal course of business shall not be required to pay the fee imposed by subsection (1) of this section, but shall instead be subject to the ad valorem tax under KRS 132.487.
- (5) Any person paying the fee imposed by subsection (1) of this section shall have ~~sixty (60)~~~~forty five (45)~~ days from the date the person is notified of the fee amount to protest. The protest shall be filed with the Commonwealth of Kentucky, Department of Revenue, in accordance with the provisions of KRS 131.110.

Notification by any state's or Canadian province's or territory's registration authority of the amount due shall satisfy the notification requirement of KRS 131.110(1).

- (6) No protest or appeal shall delay the collection or payment of the fee imposed by subsection (1) of this section. The fee amount due as determined in subsection (2) of this section shall be paid at the time of registration. If the fee is not paid, the Commonwealth of Kentucky, Transportation Cabinet, shall not register the vehicle for which registration is sought. Persons registering vehicles in other states or Canada shall be subject to requirements of those registration authorities.

➔Section 114. KRS 141.210 is amended to read as follows:

- (1) As used in this section and KRS 141.235, unless the context requires otherwise:
- (a) "Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income as reported on the taxpayer's federal income tax return become final and unappealable; and
- (b) "Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.
- (2) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the additional tax shall be assessed and a notice of assessment mailed to the taxpayer by the department within four (4) years from the date the return was filed, except as otherwise provided in this subsection.
- (a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.
- (b) In the case of a return where a taxpayer other than a corporation understates his net income or omits an amount properly includable in net income or both which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net income stated in the return the additional tax may be assessed at any time within six (6) years after the return was filed.
- (c) In the case of a return where a corporation understates its taxable net income or omits an amount properly includable in taxable net income or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of taxable net income stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.
- (d) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six months from the date the department receives the final determination of the federal audit from the taxpayer, whichever is later.
- (e) In the case of the assessment of additional tax resulting from a decrease of a net operating loss deduction or a capital loss deduction, resulting from the carryback of a loss which occurs in a taxable year beginning after December 31, 1993, the additional tax may be assessed at any time before the expiration of the times provided for in this subsection for assessing additional tax for the taxable year which resulted in the net operating loss or capital loss carryback.

The times provided in this subsection may be extended by agreement between the taxpayer and the department. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. For taxable years beginning after December 31, 1993, any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

- (3) If any additional tax is assessed on account of any income which has been returned for taxation by any other taxpayer, the department, with the consent of the other taxpayer, his personal representatives, or heirs, shall reduce the amount of the additional tax assessed for each year by the amount of the income tax paid for that year by the other taxpayer on account of the income in question.
- (4) Every taxpayer shall:
- (a) Notify the department in writing of every audit of the taxpayer's federal income tax return within thirty (30) days after the taxpayer has or should have had knowledge of the beginning of the audit by the Internal Revenue Service, and

- (b) Submit a copy of the final determination of the federal audit within *ninety (90)*~~*thirty (30)*~~ days of the conclusion of the federal audit.

➔SECTION 115. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *There shall be allowed a nonrefundable and nontransferable credit against the tax imposed by Sections 57 or 58 and 77 of this Act, with the ordering of the credits as provided in Section 105 of this Act, for any taxpayer that, on or after January 1, 2018, pays an ad valorem tax to the Commonwealth or any political subdivision thereof for property described in KRS 132.020(1)(n) or 132.099.*
- (2) *The credit allowed under subsection (1) of this section shall be in an amount equal to:*
 - (a) *Twenty-five percent (25%) of the ad valorem taxes paid for taxable years beginning on or after January 1, 2018, and before January 1, 2019;*
 - (b) *Fifty percent (50%) of the ad valorem taxes paid for taxable years beginning on or after January 1, 2019, and before January 1, 2020;*
 - (c) *Seventy-five percent (75%) of the ad valorem taxes paid for taxable years beginning on or after January 1, 2020, and before January 1, 2021; and*
 - (d) *One hundred percent (100%) of the ad valorem taxes paid, for taxable years beginning on or after January 1, 2021.*
- (3) *If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.*
- (4) *No later than October 1, 2019, and annually thereafter, the department shall report to the Interim Joint Committee on Appropriations and Revenue:*
 - (a) *The name of each taxpayer taking the credit permitted by subsection (1) of this section;*
 - (b) *The location of the property upon which the credit was allowed; and*
 - (c) *The amount of credit taken by that taxpayer.*

➔Section 116. **Kentucky Agricultural Finance Corporation:** Notwithstanding KRS 247.978(2), the total amount of principal which a qualified applicant may owe the Kentucky Agricultural Finance Corporation at any one time shall not exceed \$5,000,000.

➔Section 117. **Administrative Fee on Infrastructure for Economic Development Fund Projects:** A one-half of one percent administrative fee is authorized to be paid to the Kentucky Infrastructure Authority for the administration of each project funded by the Infrastructure for Economic Development Fund for Coal-Producing Counties and the Infrastructure for Economic Development Fund for Tobacco Counties. These administrative fees shall be paid, upon inception of the project, out of the fund from which the project was allocated.

➔Section 118. **Child Victim's Trust Fund License Plate Statutory Suspension:** Notwithstanding KRS 186.162(2)(v), any revenue received from the sale or renewal of Child Victims' Trust Fund license plates in excess of actual costs incurred by the Transportation Cabinet related to the distribution of those plates shall be transferred to the Child Victims' Trust Fund on an annual basis.

➔Section 119. **Settlement Funds:** Notwithstanding KRS 48.005(4), any funds or assets recovered by the Attorney General in connection with a lawsuit in which he or she is a party or has entered his or her appearance on behalf of the Commonwealth of Kentucky, including ex rel. or other types of actions, shall be paid directly to the Commonwealth and deposited in a distinct trust and agency account for each settlement. The Office of Attorney General may recover reasonable costs of litigation as determined by the court and approved by the Secretary of the Finance and Administration Cabinet. The amount of settlement funds used to recover costs of litigation for each settlement shall be reported to the Interim Joint Committee on Appropriations and Revenue. After recovering reasonable costs of litigation, any required consumer restitution or payments shall be made. No other funds or assets shall be disbursed from the trust and agency accounts unless appropriated by the General Assembly. Any disbursements from settlement funds placed within a trust and agency account shall be reported monthly to the Interim Joint Committee on Appropriations and Revenue.

➔Section 120. **Charges for Federal, State, and Local Audits and Reviews:** Any additional expenses incurred by the Auditor of Public Accounts for required audits or reviews of Federal Funds shall be charged to the government or agency that is the subject of the audit or review. The Auditor of Public Accounts receives General

Fund appropriations for audits of the statewide systems of personnel and payroll, cash and investments, revenue collection, and the state accounting system. Any expenses incurred by the Auditor of Public Accounts for any other audits or reviews shall be charged to the agency that is the subject of such audit or review. The Auditor of Public Accounts shall maintain a record of all time and expenses for each audit, review, or investigation.

Notwithstanding KRS 43.070(3), a county audited under KRS 43.070(1)(a)1. shall bear seventy-five percent (75%) of the actual expense of the audit. A county audited under KRS 43.070(1)(a)2. or (2)(a) shall bear the total actual expense of the audit. No county shall be required to bear the expense for more than one (1) audit of the same fund or office annually pursuant to KRS 43.070(1)(a)1. or 2., except as provided in KRS 64.810(4).

➔Section 121. **Personnel Board Operating Assessment:** Each agency of the Executive Branch with employees covered by KRS Chapter 18A shall be assessed each fiscal year the amount required for the operation of the Personnel Board. The agency assessment shall be determined by the Secretary of the Finance and Administration Cabinet based on the authorized full-time positions of each agency on July 1 of each year of the biennium. The Secretary of the Finance and Administration Cabinet shall collect the assessment.

➔Section 122. **Water Withdrawal Fees:** The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding KRS 151.710(10), Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

➔Section 123. **Urgent Needs School Assistance:** If a school district receives an allotment for an Urgent Needs School authorized in 2014 Ky. Acts ch. 117, Part I, A., 28., (5), 2014 Ky. Acts ch. 117, Part I, C., 1., (19)(b), and 2016 Ky. Acts ch. 149, part I, A., 28., (4) and (5) and subsequently, as a result of litigation or insurance, receives funds for the original facility, the school district shall reimburse the Commonwealth an amount equal to that received for such purposes. If the litigation or insurance receipts are less than the amount received, the district shall reimburse the Commonwealth an amount equal to that received as a result of litigation or insurance less the district's costs and legal fees in securing the judgment or payment. Any funds received in this manner shall be deposited in the Budget Reserve Trust Fund Account (KRS 48.705).

➔Section 124. **Real Property Disposal:** There is hereby established within the Education and Workforce Development Cabinet the Office of Employment Training Building Proceeds Fund for the support of workforce operations. Notwithstanding KRS 45.229, any fund balance at the close of fiscal year 2018-2019 shall not lapse but shall be carried forward to the next fiscal year. Pursuant to KRS 45.229, any fund balance at the close of fiscal year 2019-2020 shall lapse to the surplus account of the General Fund. Notwithstanding KRS 45.777, up to \$3,000,000 of proceeds from the disposal under KRS 45A.045 of any state-owned real property operated by the Office of Employment and Training shall be deposited in the Office of Employment Training Building Proceeds Fund.

➔Section 125. **Office of Procurement Services Administrative Costs:** Notwithstanding KRS 47.010(1), any revenue derived from the establishment of statewide contracts by the Office of Material and Procurement Services shall be credited to a trust and agency account and shall be used to administer the program.

➔Section 126. **Insurance Surcharge Rate:** Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2018-2020 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund. The calculation of sufficient funds for those programs shall include any Restricted Funds carried forward from fiscal years 2017-2018 and 2018-2019 as provided by the General Assembly.

➔Section 127. **Medicaid Copayments:** Notwithstanding KRS 205.6312, the Department for Medicaid Services may impose copayments for services rendered to Medicaid recipients, not to exceed the amounts permitted by federal law or waivers.

➔Section 128. **Medicaid and KCHIP Premiums and Cost-Sharing:** Notwithstanding KRS 205.6312 and 205.6485(1)(c), the Department for Medicaid Services may utilize premiums and cost-sharing for services rendered to Medicaid and KCHIP recipients not to exceed amounts permitted by federal law or waivers. KCHIP premiums are suspended for the 2018-2020 biennium.

➔Section 129. **Assessment on Insurers:** Notwithstanding KRS 304.17B-021 or any other provision of the Kentucky Revised Statutes to the contrary, for participating insurers who offer Qualified Health Plans, as defined in 42 U.S.C. sec. 18021, being sold on the Federal Exchange in the individual market segment, the assessment in KRS 304.17B-021(1)(a) 2. to 4. may be waived or assessed at any rate between zero and one percent for the 2019 or 2020 Plan Year on any health benefit plan premium written by that insurer in the individual market segment.

➔Section 130. **Pro Rata Assessment:** The Personnel Cabinet shall collect a pro rata assessment from all state agencies, in all three branches of government, and other organizations that are supported by the System. Those collections shall be deposited and retained in a Restricted Funds account within the Personnel Cabinet.

➔Section 131. **Service Capacity Upgrade Fund:** Notwithstanding KRS 341.243(4) and (7), beginning July 1, 2018, seventy-five thousandths of one percent shall be withheld from each rate established under KRS 341.270 and 341.272, only if the Unemployment Insurance Trust Fund balance exceeds the balance of the trust fund as of December 31, 2017, and shall be deposited in the Service Capacity Upgrade Fund and used solely in accordance with KRS 341.243(2) and as provided by the General Assembly. The Secretary of the Education and Workforce Development Cabinet may exercise his or her discretion to reduce the percentage rate established in this subsection or suspend required payments to the Service Capacity Upgrade Fund at any time.

➔Section 132. **Premium and Retaliatory Taxes:** Notwithstanding KRS 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.

➔Section 133. **Monthly Per Employee Health Insurance Benefits Assessment:** The Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

➔Section 134. **Surplus Property:** Notwithstanding KRS 45.777, any funds received by the Commonwealth from the disposal of any surplus property at the Kentucky School for the Blind, the Kentucky School for the Deaf, and the FFA Leadership Training Center shall be deposited in a separate restricted account for each facility and shall not be expended without appropriation authority granted by the General Assembly.

➔Section 135. **Publishing Requirements:** Notwithstanding KRS 83A.060, 91A.040, and Chapter 424, a county containing a population of more than 90,000 or any city within a county containing a population of more than 90,000, as determined by the 2010 United States Census, may publish enacted ordinances, audits, and bid solicitations by posting the full ordinances, the full audit report including the auditor's opinion letter, or the bid solicitations on an Internet Web site maintained by the county or city government for a period of at least one year. If a county or city publishes ordinances, audits, or bid solicitations on an Internet Web site, the county or city shall also publish an advertisement, in a newspaper qualified in accordance with KRS 424.120, with a description of the ordinances, audits, or bid solicitations published on the Internet Web site, including the Uniform Resource Locator (URL) where the documents can be viewed.

➔Section 136. (1) Notwithstanding KRS 68.197 or any other statute to the contrary, the provisions of this section shall apply to the levy of license fees by a county that levied a license fee that was in effect on the effective date of this Act, and a city within that county that has levied but not collected a license fee as of the effective date of this Act.

(2) From July 1, 2016, through June 30, 2017, the credit established by KRS 68.197(7) shall only apply to the first one-tenth of one percent (0.1%) of the tax rate imposed by the county within the corporate limits of the city.

(3) From July 1, 2017, through June 30, 2018, the credit established by KRS 68.197(7) shall only apply to the first two-tenths of one percent (0.2%) of the tax rate imposed by the county within the corporate limits of the city.

(4) Any city and county subject to this section may enter into an interlocal agreement to establish a revenue-sharing arrangement that differs from the requirements of this section.

➔Section 137. Notwithstanding KRS 68.197 or any other statute to the contrary, the provisions of this section shall apply as follows from the effective date of this Act through June 30, 2018:

(1) Any set-off or credit of city license fees against county license fees that exists between a city and county as of the effective date of this Act, shall remain in effect as it is on the effective date of this Act;

(2) The provisions of subsection (7) of KRS 68.197 shall not apply to a city and county unless both the city and the county have levied and are collecting license fees on the effective date of this Act;

(3) Any agreement between a city and county related to the sharing of revenues from a license fee that is in effect on the effective date of this Act shall remain in effect, regardless of whether the agreement, by its terms, was set to expire prior to June 30, 2018; and

(4) Any city and county subject to the provisions of subsections (1) to (3) of this section may enter into an interlocal agreement to establish a revenue-sharing arrangement that differs from the requirements of this section.

➔Section 138. Notwithstanding the provisions of KRS 68.197, KRS 68.199, or any other statute to the contrary, any county that:

(1) Enacted an occupational license fee under the authority of KRS 67.083 at a rate of greater than one percent (1%) prior to reaching a population of 30,000; and

(2) Has an agreement with the largest city in the county to share revenues from the occupational license fee levied by the county;

may increase the occupational license fee rate above the rate that was imposed at the time the population of the county grew to beyond 30,000 if the county and the largest city within the county enter into an agreement approving the rate increase, and providing an agreed distribution of revenues from the levy to the city and the county. Other cities within the county may also be parties to the agreement if agreed to by all the parties.

➔Section 139. **Severability of Provisions:** If any section, any subsection, or any provision of this Act is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining sections, subsections, or provisions.

➔Section 140. The following KRS sections are repealed:

136.070 Corporation license tax -- Exemptions -- Apportionment -- Credit.

136.0701 Corporation license tax -- Removal after December 31, 2005.

136.0704 License tax credit for economic revitalization projects -- Computation -- Cap.

136.071 Corporation license tax -- Apportionment of capital when corporation holds stock in other corporations.

141.0202 Deduction of leasehold interest of property contributed as living quarters for homeless persons.

141.0405 Coal incentive tax credit for electric power generation and alternative fuel or gasification facilities -- Procedure for claiming credit -- Priority of application.

141.0406 Time frame for claiming coal incentive tax credit allowed under KRS 141.0405.

141.388 Nonrefundable tax credit for new home purchases.

141.392 Tax credit for donated edible agricultural products.

141.402 Taxing provisions governing approved companies under Subchapter 25 of KRS Chapter 154.

141.420 Taxable income of individuals from pass through entities -- Allowable credits from pass through entities -- Determining basis in ownership interest.

141.421 Tax incentives for alternative fuel, gasification, and renewable energy facilities.

154.25-010 Definitions for subchapter.

154.25-020 Criteria for approval of eligible companies and job retention projects -- Preliminary approval.

154.25-030 Jobs retention project agreement -- Requirements, limitations, and permitted inducements.

154.25-040 Wage assessment -- Tax credits for employees -- Department of Revenue to make annual report to authority.

154.25-050 Supplemental projects -- Application for and approval of -- Project's activation date -- Inducements, when authorized.

154.27-010 Definitions for subchapter.

154.27-020 Short title -- Legislative findings -- Purpose of subchapter-- Incentives.

154.27-030 Application for incentives -- Review -- Approval -- Approval of projects involving new, retrofitted, or upgraded alternative fuel facilities.

154.27-040 Tax incentive agreement -- Required provisions.

154.27-050 Release of sales tax incentives under tax incentive agreement -- Monitoring, tracking, and reporting requirements.

154.27-060 Severance tax incentives.

154.27-070 Sales and use tax incentives.

- 154.27-080 Income and limited liability entity tax incentives -- Assessment on employees' wages.
- 154.27-090 Advance disbursement of incentives -- Computation of maximum disbursement amount -- Schedule for disbursement -- Repayment.
- 154.27-100 Construction of carbon dioxide transmission pipeline -- Proceedings for condemnation under Eminent Domain Act -- Legislative determination of essential public use.
- 154.48-010 Definitions for KRS 154.48-010 to 154.48-035.
- 154.48-015 Findings of General Assembly regarding provisions of KRS 154.48-010 to 154.48-035.
- 154.48-020 Administrative regulations establishing standards for preliminary approval of eligible companies and projects -- Review by authority and final approval of companies and projects -- Authority's meetings to be governed by provisions of Open Meetings Act.
- 154.48-025 Environmental stewardship agreements -- Final approval of application -- Tax credits -- Sum of total inducements -- Limitation on use of recycling credit -- Consent of authority required for transfer of agreement.
- 154.48-030 Department to make annual report on income tax credits and returns to authority.
- 154.48-035 Short title for KRS 154.48-010 to 154.48-035 -- Kentucky Environmental Stewardship Act.
- ➔Section 141. Section 27 applies to the sale of cigarettes and electronic cigarettes on or after July 1, 2018.
- ➔Section 142. Section 28 applies to the inventory taken on June 30, 2018.
- ➔Section 143. Sections 36 to 51 apply to transactions occurring on or after July 1, 2018.
- ➔Section 144. Sections 53 to 58, 60 to 62, and 115 apply to taxable years beginning on or after January 1, 2018.
- ➔Section 145. Sections 116 to 128 and 130 to 138 of this Act apply to the fiscal year beginning July 1, 2018, and ending June 30, 2019, and the fiscal year beginning July 1, 2019, and ending June 30, 2020, and shall expire at the end of June 30, 2020.
- ➔Section 146. Section 129 of this Act applies to the plan year beginning January 1, 2019, and ending December 31, 2019, and the plan year beginning January 1, 2020, and ending December 31, 2020, and shall expire at the end of December 31, 2020.
- ➔Section 147. Whereas this Act applies to the balancing of the Executive Branch Budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Vetoed April 9, 2018. Veto overridden April 13, 2018. Became law April 14, 2018.

CHAPTER 172

(HB 148)

AN ACT relating to the disposal of controlled substances during end-of-life care.

WHEREAS, comfort measures for end of life care often require powerful medications and controlled substances in the form of pills, injections, patches, liquids, and other delivery methods; and

WHEREAS, patients receiving end of life care are often able to be treated at home; and

WHEREAS, the Commonwealth is facing an addiction crisis in regard to pain medications; and

WHEREAS, the Drug Enforcement Administration recently created regulations on the disposal of controlled substances which prevent home health agencies from disposing of controlled substances on behalf of their patients, unless state law specifically allows for disposal; and

WHEREAS, the Commonwealth seeks to protect the public from the risk of having such medications stolen and seeks to encourage safe methods of disposal which do not endanger people or the natural environment;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

- (1) *Any provider of hospice, palliative care, or end-of-life services shall have written policies and procedures for the deactivation or sequestration and disposal of Schedule II, III, IV, or V controlled substances prescribed to a patient when a prescription is discontinued or upon the patient's death by the entity or person pronouncing the death.*
- (2) *Any provider of hospice, palliative care, or end-of-life services shall provide a copy of the written policy and procedures for the management and the deactivation or sequestration and disposal of Schedule II, III, IV, or V controlled substances prescribed to a patient when a prescription is discontinued or upon the patient's death, to the patient or the patient's legal representative, and the provider shall discuss the policy and procedures with the patient or the patient's legal representative. The patient or the patient's legal representative shall be requested to sign an agreement to this policy.*
- (3) *In an effort to reduce illegal diversion of Schedule II, III, IV, or V controlled substances, the agreement to the written policy and procedures required under subsection (2) of this section shall inform the patient or the patient's legal representative that if the patient or the patient's legal representative refuses to agree to the deactivation or sequestration and disposal when a prescription is discontinued or upon the death of the patient, local law enforcement or the Department for Public Health shall be notified of the refusal by the hospice, palliative care, or end-of-life services provider or the entity or person pronouncing death.*
- (4) *The deactivation or sequestration and disposal of Schedule II, III, IV, or V controlled substances prescribed to a patient when a prescription is discontinued or upon the patient's death shall be completed by the entity or person pronouncing death and witnessed by an adult. The witness shall sign a statement that he or she witnessed the deactivation or sequestration and disposal.*
- (5) *The deactivation or sequestration and disposal methods of Schedule II, III, IV, or V controlled substances used by the entity or person pronouncing death shall comply with the United States Food and Drug Administration's recommendations for the safe disposal of unused medicines or shall be another safe deactivation or sequestration and disposal method.*

Vetoed April 2, 2018. Veto overridden April 14, 2018. Became law April 14, 2018.

CHAPTER 173

(HB 204)

AN ACT making appropriations for the operations, maintenance, and support of the Legislative Branch of the Commonwealth of Kentucky.

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

➔Section 1. The Legislative Branch Budget is as follows:

PART I

OPERATING BUDGET

Funds Appropriations: Funds are appropriated to the Legislative Research Commission for the Legislative Branch of government out of the General Fund and Restricted Funds accounts for the fiscal year beginning July 1, 2018, and ending June 30, 2019, and for the fiscal year beginning July 1, 2019, and ending June 30, 2020, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the Legislative Branch of government of the Commonwealth of Kentucky.

2018-19

2019-20

1. General Assembly

General Fund	18,211,700	19,020,700
Restricted Funds	75,000	175,000
TOTAL	18,286,700	19,195,700

(1) **Legislators Retirement and Compensation:** Notwithstanding any statutes to the contrary, no funding is provided for the actuarially required contributions to the Legislators Retirement Plan. Notwithstanding KRS 6.190 and 6.213, the daily compensation provided by KRS 6.190 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall remain at the January 1, 2018, level.

(2) **Kentucky Legislative Ethics Commission:** Included in the above General Fund appropriation is \$541,500 in fiscal year 2018-2019 and \$543,600 in fiscal year 2019-2020 for the Kentucky Legislative Ethics Commission. Included in the above Restricted Funds appropriation is \$75,000 in fiscal year 2018-2019 and \$175,000 in fiscal year 2019-2020 for the Kentucky Legislative Ethics Commission.

(3) **Kentucky Long-Term Policy Research Center:** Notwithstanding KRS 7B.010 to 7B.090, operation of the Kentucky Long-Term Policy Research Center and its governing board shall continue to be suspended effective July 1, 2018, and shall remain suspended for the 2018-2020 fiscal biennium or until funding is restored. No funds are appropriated for the Kentucky Long-Term Policy Research Center for fiscal year 2018-2019 and fiscal year 2019-2020.

(4) **Pension Benefit Increase:** Notwithstanding KRS 6.521(3), no pension benefit increase shall be granted to recipients of a retirement allowance under KRS 6.500 to 6.577 on July 1, 2018, or July 1, 2019.

	2018-19	2019-20
2. Legislative Research Commission		
General Fund	50,396,000	51,141,800

(1) **Permanent Full-time Employees:** The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation, and not assigned specifically to the House and Senate members of the Legislative Research Commission, shall not exceed 232 in fiscal year 2018-2019 and 232 in fiscal year 2019-2020. In addition to this number, the total number of permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

TOTAL - OPERATING BUDGET

	2018-19	2019-20
General Fund	68,607,700	70,162,500
Restricted Funds	75,000	175,000
TOTAL	68,682,700	70,337,500

Unexpended Balance: Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2017-2018 shall not lapse but shall continue into fiscal year 2018-2019, and any unexpended balance in any succeeding fiscal year shall not lapse but shall continue into the following fiscal year.

TOTAL - LEGISLATIVE BRANCH BUDGET

	2018-19	2019-20
General Fund	68,607,700	70,162,500
Restricted Funds	75,000	175,000
TOTAL	68,682,700	70,337,500

PART II

GENERAL PROVISIONS

1. **Expenditure Authority:** The Director of the Legislative Research Commission, under the supervision of the Legislative Research Commission, may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose consistent with the policies and practices of the Commission. No executive agency or statute governing the executive agencies of state government shall have the

power to restrict or limit the actions of, or the expenditure of funds appropriated to, the Legislative Research Commission for the Legislative Branch of government.

2. Capitol and Capitol Annex Capital Construction Expenditures: Any expenditure authorized by the Director of the Legislative Research Commission, under the supervision of the Legislative Research Commission, relating to implementation of KRS 56.463(4)(b), or relating to the Capitol Building, and funded by previous or current appropriations to the Legislative Research Commission for the Legislative Branch of government shall not be governed by KRS 7A.010, 7A.120, 45.750 to 45.810, 48.010(16), 48.020, and 48.110.

3. Severability of Budget Provisions: Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provision thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Duplicate Appropriation: Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2018 Regular Session of the General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. Priority of Individual Appropriations: KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Appropriations Revisions: Proposed revisions to Restricted Funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Legislative Research Commission may transfer any available funds between all appropriation units as needed to meet the constitutional requirements of the Legislative Branch for fiscal years 2017-2018, 2018-2019, and 2019-2020.

7. Allowance in Lieu of Stationery: Notwithstanding KRS 6.220, in lieu of stationery, there shall be allowed to each member of the House of Representatives the sum of \$250 and to each member of the Senate the sum of \$500. This allowance shall be paid out of the State Treasury at the beginning of each legislative session.

8. Issuance of Employee Paychecks: Notwithstanding 101 KAR 2:095, Section 10, the state payroll that would normally be scheduled to be paid on June 30, 2019, and June 30, 2020, shall not be issued prior to July 1, 2019, and July 1, 2020.

9. Salary Adjustments: In each fiscal year, employees of the Legislative Research Commission shall receive a salary adjustment in accordance with the salary adjustment provided to state employees in the state/executive branch budget.

10. Administrative Expenses: Pursuant to KRS 21.540, administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary moneys, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.

PART III

FUNDS TRANSFER

The Legislative Branch shall transfer \$2,269,000 to the General Fund in each fiscal year.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Legislative Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

Vetoed April 9, 2018. Veto overridden April 13, 2018. Became law April 14, 2018.

CHAPTER 174

(SB 73)

AN ACT relating to school districts.

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

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

- (1) (a) *Beginning in the 2018-2019 school year, and continuing until the end of the 2020-2021 school year, a school district may establish a pilot program for teachers to develop and implement a performance-based professional development project, which is designed to produce measurable outcomes of positive impact on student performance.*
- (b) *The pilot program shall require two (2) or more teachers to design an instructional practice or strategy project to address an identified school or district academic or non-academic classroom problem.*
- (c) *Successful completion of a project under this section shall satisfy up to three (3) days of the requirement to complete four (4) days of professional development under subsection (3)(a) of Section 2 of this Act.*
- (d) *A local board of education may award a teacher a stipend for successful completion of a project.*
- (2) *The local board of education shall determine the parameters for the performance-based professional development pilot program, including but not limited to:*
 - (a) *A project application process;*
 - (b) *Review and approval of project proposals;*
 - (c) *Submission of completed project analysis and results;*
 - (d) *Evaluation of completed projects;*
 - (e) *The awarding of professional development credit, including the amount of the credit and when it will be credited; and*
 - (f) *The awarding of a stipend, if applicable.*
- (3) (a) *The Kentucky Department of Education shall study the completed pilot projects for their impact on schools and districts to determine the attributes of quality performance-based professional development and the best practices for measuring its effectiveness.*
- (b) *By August 1, 2022, the department shall report its findings and any recommendations for revising professional development policy to the Interim Joint Committee on Education.*

➔Section 2. KRS 158.070 is amended to read as follows:

- (1) As used in this section:
 - (a) "Election" has the same meaning as in KRS 121.015;
 - (b) "Minimum school term" or "school term" means not less than one hundred eighty-five (185) days composed of the student attendance days, teacher professional days, and holidays;
 - (c) "School calendar" means the document adopted by a local board of education that establishes the minimum school term, student instructional year or variable student instructional year, and days that school will not be in session;
 - (d) "School district calendar committee" means a committee *that includes at least the following*~~consisting of~~:
 - 1. One (1) school district principal;
 - 2. One (1) school district office administrator other than the superintendent;
 - 3. One (1) member of the local board of education;
 - 4. Two (2) parents of students attending a school in the district;
 - 5. One (1) school district elementary school teacher;
 - 6. One (1) school district middle or high school teacher;
 - 7. Two (2) school district classified employees; and
 - 8. Two (2) community members from the local chamber of commerce, business community, or tourism commission;

- (e) "Student attendance day" means any day that students are scheduled to be at school to receive instruction, and encompasses the designated start and dismissal time;
 - (f) "Student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time for students delivered on not less than one hundred seventy (170) student attendance days;
 - (g) "Teacher professional day" means any day teachers are required to report to work as determined by a local board of education, with or without the presence of students; and
 - (h) "Variable student instructional year" means at least one thousand sixty-two (1,062) hours of instructional time delivered on the number of student attendance days adopted by a local board of education which shall be considered proportionally equivalent to one hundred seventy (170) student attendance days and calendar days for the purposes of a student instructional year, employment contracts that are based on the school term, service credit under KRS 161.500, and funding under KRS 157.350.
- (2)
- (a) Beginning with the 2018-2019 school year, and each year thereafter, the local board of education, upon recommendation of the local school district superintendent, shall annually appoint a school district calendar committee to review, develop, and recommend school calendar options.
 - (b) The school district calendar committee, after seeking feedback from school district employees, parents, and community members, shall recommend school calendar options to the local school district superintendent for presentation to the local board of education. The committee's recommendations shall comply with state laws and regulations and consider the economic impact of the school calendar on the community and the state.
 - (c) Prior to adopting a school calendar, the local board of education shall hear for discussion the school district calendar committee's recommendations and the recommendation of the superintendent at a meeting of the local board of education.
 - (d) During a subsequent meeting of the local board of education, the local board shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, student attendance days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.
 - (e) For local board of education meetings described in paragraphs (c) and (d) of this subsection, if the meeting is a regular meeting, notice shall be given to media outlets that have requests on file to be notified of special meetings stating the date of the regular meeting and that one (1) of the items to be considered in the regular meeting will be the school calendar. The notice shall be sent at least twenty-four (24) hours before the regular meeting. This requirement shall not be deemed to make any requirements or limitations relating to special meetings applicable to the regular meeting.
 - (f) Beginning with the 2018-2019 school year, and each year thereafter, a local school board of education that adopts a school calendar with the first student attendance day in the school term starting no earlier than the Monday closest to August 26 may use a variable student instructional year. Districts may set the length of individual student attendance days in a variable student instructional schedule, but no student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.
- (3)
- (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of students pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.
 - (b) In addition to the four (4) days required under paragraph (a) of this subsection, a minimum of two (2) hours of self-study review of suicide prevention materials shall be required for all high school and middle school principals, guidance counselors, and teachers each school year.
 - (c) *I.* A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development

activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

- 2.~~1.1~~ A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan ~~or consolidated plan~~ and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
 - 3.~~2.2~~ No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement ~~or consolidated~~ plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.
- (d) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.
 - (e) Each local board may use two (2) days for planning activities without the presence of students.
 - (f) Each local board may close schools for the number of days deemed necessary for:
 1. National or state emergency or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
 2. Local emergency which would endanger the health or safety of children; and
 3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.
- (4) (a) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of student attendance days as a result of a local emergency, as described in subsection (3)(f)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of waivers from the requirements of a student instructional year in subsection (1)(f) of this section for districts that wish to adopt innovative instructional calendars, or for circumstances that would create extreme hardship.
 - (b) If a local board of education amends its school calendar after its adoption due to an emergency, it may lengthen or shorten any remaining student attendance days by thirty (30) minutes or more, as it deems necessary, provided the amended calendar complies with the requirements of a student instructional year in subsection (1)(f) of this section or a variable student instructional year in subsection (1)(h) of this section. No student attendance day shall contain more than seven (7) hours of instructional time unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar.
- (5) (a)
 1. In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings.
 2. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates.
 3. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit employees who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence.
 4. The commissioner of education shall designate one (1) additional day during the school year when schools may be closed to permit professional school employees to participate in regional or district professional meetings.

5. These three (3) days so designated for attendance at professional meetings may be counted as a part of the minimum school term.
- (b) 1. If any school in a district is used as a polling place, the school district shall be closed on the day of the election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.
2. A district may be open on the day of an election if no school in the district is used as a polling place.
- (c) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:
 1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(d) of this section; or
 2. Not include the day in the minimum school term specified in subsection (1) of this section.
- (6) (a) The Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, shall be encouraged to schedule athletic competitions outside the regularly scheduled student attendance day.
- (b) Beginning with the 2009-2010 school year, any member of a school-sponsored interscholastic athletic team who competes in a regional tournament or state tournament sanctioned by the Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, and occurring on a regularly scheduled student attendance day may be counted present at school on the date or dates of the competition, as determined by local board policy, for a maximum of two (2) days per student per year. The student shall be expected to complete any assignments missed on the date or dates of the competition.
- (c) The school attendance record of any student for whom paragraph (b) of this subsection applies shall indicate that the student was in attendance on the date or dates of competition.
- (7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.
- (8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the student attendance day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the student attendance day.
- (9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the student instructional year in subsection (1)(f) of this section, or a variable student instructional year in subsection (1)(h) of this section, except that the commissioner of education may grant up to the equivalent of ten (10) student attendance days for school districts that have ***a nontraditional***~~[an alternative]~~ instruction plan approved by the commissioner of education~~[for the use of alternative methods of instruction, including virtual learning,]~~ on days when the school district is closed for health or safety reasons~~[, on nontraditional days, or on nontraditional time]~~. The district's plan shall ***indicate how the nontraditional instruction process shall be a continuation of learning that is occurring on regular student attendance days. Instructional delivery methods, including the use of technology, shall be clearly delineated in the plan***~~[demonstrate how teaching and learning in the district will not be negatively impacted]~~. Average daily attendance for purposes of Support Education Excellence in Kentucky program funding during the student attendance days granted shall be calculated in compliance with administrative regulations promulgated by the Kentucky Board of Education.

- (10) *By December 31, 2018, the Kentucky Board of Education shall promulgate administrative regulations to be effective beginning with the 2019-2020 school year to prescribe the conditions and procedures for districts to be approved for the nontraditional instruction program. Administrative regulations promulgated by the board under this section shall specify:*
- (a) *The application, plan review, approval, and amendment process;*
 - (b) *Reporting requirements for districts approved for the program, which may include but are not limited to examples of student work, lesson plans, teacher work logs, and student and teacher participation on nontraditional instruction days. Documentation to support the use of nontraditional instruction days shall include clear evidence of learning continuation;*
 - (c) *Timelines for initial approval as a nontraditional instruction district, length of approval, the renewal process, and ongoing evaluative procedures required of the district;*
 - (d) *Reporting and oversight responsibilities of the district and the Kentucky Department of Education, including the documentation required to show clear evidence of learning continuation during nontraditional instruction days; and*
 - (e) *Other components deemed necessary to implement this section.*
- (11) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (2) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the beginning of the student attendance day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the student attendance day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.
- ~~(12)(11)~~ Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses student attendance days due to emergencies, including weather-related emergencies:
- (a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:
 - 1. State and local requirements under this section are met regarding the equivalent of the number and length of student attendance days, teacher professional days, professional development days, holidays, and days for planning activities without the presence of students; and
 - 2. The provisions of the district's school calendar to make up student attendance days missed due to any emergency, as approved by the Kentucky Department of Education when required, including but not limited to a provision for additional instructional time per day, are met.
 - (b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:
 - 1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make up full days missed due to an emergency;
 - 2. The employee's contract requires a minimum six (6) hour work day; and
 - 3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.
 - (c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened student attendance days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened student attendance days.

Signed by Governor April 25, 2018.

CHAPTER 175

(HB 153)

AN ACT relating to overweight vehicles.

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

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

- (1) *The department may promulgate administrative regulations pursuant to KRS Chapter 13A governing the issuance of annual certificates for the operation of motor vehicles exclusively engaged in transporting feed for livestock or poultry to a farm or other facility housing livestock or poultry.*
- (2) *A motor carrier exclusively engaged in transporting feed for livestock or poultry in divisible or nondivisible loads may apply for an annual certificate pursuant to subsection (1) of this section. A certificate issued under this section shall be:*
 - (a) *Specific to a single truck;*
 - (b) *Valid twenty-four (24) hours a day; and*
 - (c) *Kept in the vehicle during all times of operation.*
- (3) *The cost of an annual certificate issued under this section shall be one hundred fifty dollars (\$150), paid to the cabinet.*
- (4) *Administrative regulations promulgated by the department under this section may require motor carriers to meet specific Federal Motor Carrier Safety Administration (FMCSA) safety ratings and FMCSA safety measurement system scores before issuance of a certificate under this section.*

➔Section 2. KRS 189.222 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, the secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable classification of state maintained roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:
 - (a) 1. Height, for vehicles transporting motor vehicles, fourteen (14) feet; and
 2. Height, for all other vehicles, thirteen and one-half (13-1/2) feet;
 - (b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;
 - (c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. No single axle in any arrangement shall exceed twenty thousand (20,000) pounds or seven hundred (700) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;
 - (d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;
 - (e) Except as provided for in paragraph (f) of this subsection, truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on

those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same;

- (f) A vehicle or combination of vehicles that is one hundred two (102) inches wide or less and has a gross weight of not more than eighty thousand (80,000) pounds may be driven on any state highway, for a distance of up to fifteen (15) miles from an interstate or parkway exit.
- (2) In addition to the provisions of KRS 189.2226, vehicles with a gross weight of up to eighty thousand (80,000) pounds may travel on any state highway in the Commonwealth without obtaining a special permit, if the weight does not exceed any limits mandated by federal law or regulation, any posted bridge weight limit, or the weight limits for the size and type of vehicle established under paragraph (c) of subsection (1) of this section, and if the vehicle is transporting any of the following:
 - (a) Meats or agricultural crop products originating from a farm to first market;
 - (b) Livestock or poultry from their point of origin to first market. As used in this paragraph and in paragraph (d) of this subsection, "livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;
 - (c) Primary forest products, including, but not limited to, sawdust, wood chips, bark, slabs, or logs originating from their points of origin to first market; or
 - (d) Supplies, materials, or equipment necessary to carry out a farming operation engaged in the production of agricultural crop products, meats, livestock, or poultry.
- (3) ***The following*** vehicles registered under KRS 186.050 ~~that are engaged exclusively in the transportation of items listed in subsection (2)(a), (b), and (c) of this section~~ may exceed the gross weight provisions set forth in subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system:
 - (a) ***Vehicles that are engaged exclusively in the transportation of items listed in subsection (2)(a), (b), and (c) of this section; and***
 - (b) ***Vehicles that are engaged exclusively in the transportation of feed for livestock or poultry.***
- (4) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles.
- (5) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.
- (6) Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.
- (7) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.
- (8) The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.
- (9) Except as otherwise provided in this chapter, the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:
 - (a) Width, one hundred two (102) inches, including any part of the body or load;

- (b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.
- (10) Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, feed for livestock or poultry, and agricultural products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.
- (11) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, relating to the implementation of 23 C.F.R. Part 658 as it relates to state-maintained or locally maintained roads. The enforcement of the provisions of KRS 189.221 and this section on locally maintained roads shall not be the responsibility of the law enforcement officers of the Transportation Cabinet, unless the head of the corresponding local government unit has requested, in writing, enforcement assistance from the Transportation Cabinet.

Signed by Governor April 25, 2018.

CHAPTER 176

(HB 302)

AN ACT relating to the operation of state government.

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

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

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

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

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.

- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

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

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

2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Division of Mine Safety.
 8. Division of Forestry.
 9. Division of Conservation.
 10. Office of the Reclamation Guaranty Fund.
- (d) Department for Energy Development and Independence.
1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - f. Professional Licensing Legal Division.**
 3. **Office of Administrative Hearings.**
- (b) Kentucky Claims Commission.
- (c) Kentucky Boxing and Wrestling Commission.
- (d) Kentucky Horse Racing Commission.
1. Office of Executive Director.
 - a. Division of Pari-mutuel Wagering and Compliance.
 - b. Division of Stewards.
 - c. Division of Licensing.
 - d. Division of Enforcement.
 - e. Division of Incentives and Development.
 - f. Division of Veterinary Services.
- (e) Department of Alcoholic Beverage Control.
1. Division of Distilled Spirits.

2. Division of Malt Beverages.
3. Division of Enforcement.
- (f) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
- (g) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
- (h) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (i) Department of Insurance.
 1. Division of Insurance Product Regulation.
 2. Division of Administrative Services.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Division of Consumer Protection.
 7. Division of Kentucky Access.
- (j) Department of Professional Licensing.
 1. Real Estate Authority.
- (5) Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - a. Workplace Standards Legal Division.
 - b. Workers' Claims Legal Division.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Apprenticeship.
 2. Division of Occupational Safety and Health Compliance.

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

- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - a. Office of Entrepreneurship.
 - i. Commission on Small Business Advocacy.
 - b. Office of Research and Public Affairs.
 - c. Bluegrass State Skills Corporation.
 - 3. Office of Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Division of Finance and Personnel.
 - c. Division of Network Administration.
 - d. Compliance Division.
 - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Finance and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
 - (t) Office of Legislative and Regulatory Affairs.
- (9) Finance and Administration Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of the Inspector General.
 - (c) Office of Legislative and Intergovernmental Affairs.

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

- (c) Department of Fish and Wildlife Resources.
 - 1. Division of Law Enforcement.
 - 2. Division of Administrative Services.
 - 3. Division of Engineering, Infrastructure, and Technology.
 - 4. Division of Fisheries.
 - 5. Division of Information and Education.
 - 6. Division of Wildlife.
 - 7. Division of Marketing.
- (d) Kentucky Horse Park.
 - 1. Division of Support Services.
 - 2. Division of Buildings and Grounds.
 - 3. Division of Operational Services.
- (e) Kentucky State Fair Board.
 - 1. Office of Administrative and Information Technology Services.
 - 2. Office of Human Resources and Access Control.
 - 3. Division of Expositions.
 - 4. Division of Kentucky Exposition Center Operations.
 - 5. Division of Kentucky International Convention Center.
 - 6. Division of Public Relations and Media.
 - 7. Division of Venue Services.
 - 8. Division of Personnel Management and Staff Development.
 - 9. Division of Sales.
 - 10. Division of Security and Traffic Control.
 - 11. Division of Information Technology.
 - 12. Division of the Louisville Arena.
 - 13. Division of Fiscal and Contract Management.
 - 14. Division of Access Control.
- (f) Office of the Secretary.
 - 1. Office of Finance.
 - 2. Office of Government Relations and Administration.
 - 3. Office of Film and Tourism Development.
 - 4. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.

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

III. Other departments headed by appointed officers:

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

➔Section 2. KRS 12.252 is amended to read as follows:

- (1) There is established within the Public Protection Cabinet a Department of Financial Institutions, a Department of Insurance, a Department of Housing, Buildings and Construction, a Department of Charitable Gaming, a Department of Professional Licensing, and a Department of Alcoholic Beverage Control. Each department

shall be headed by a commissioner appointed by the Governor as required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020. Commissioners shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.

- (2) The secretary of the Public Protection Cabinet shall be appointed by the Governor in accordance with KRS 12.255. The Office of the Secretary shall contain the following entities:
 - (a) The Office of Communications and Public Outreach, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;~~and~~
 - (b) The Office of Legal Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210; **and**
 - (c) ***The Office of Administrative Hearings, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210.***
- (3) There is established within the Public Protection Cabinet the Kentucky Claims Commission pursuant to KRS 49.010.
- (4) The Kentucky Horse Racing Commission is attached to the Public Protection Cabinet for administrative purposes only, except as provided in KRS 131.330.
- (5) There is established within the Public Protection Cabinet the Kentucky Boxing and Wrestling Commission, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.

➔Section 3. KRS 171.420 is amended to read as follows:

- (1) The State ***Libraries***, Archives, and Records Commission is hereby created and shall be a seventeen (17) member body constituted as follows:
 - (a) The state librarian or his ***or her*** designee, who shall be the ***chairperson***~~chairman~~ of the commission;
 - (b) The secretary of the Education and Workforce Development Cabinet or his ***or her*** designee, ***who shall serve as vice chairperson***;
 - (c) The Auditor of Public Accounts or his ***or her*** designee;
 - (d) The ***state law librarian***~~Chief Justice of the Supreme Court~~ or his ***or her*** designee;
 - (e) The director of the Legislative Research Commission or his ***or her*** designee;
 - (f) The Attorney General or his ***or her*** designee;
 - (g) The ***executive*** director of the ***Kentucky Military Heritage Commission or a designee of the commission***~~Office for Policy and Management in the Office of the Controller or his designee~~;
 - (h) The executive director of the Commonwealth Office of Technology or~~her or~~ his ***or her*** designee;
 - (i) ***The president of the Kentucky Association of School Librarians or his or her designee***~~One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky~~;
 - (j) ***The executive director***~~One (1) member appointed by the Governor from a list of three (3) persons submitted by the president~~ of the Kentucky Historical Society ***or his or her designee***;
 - (k) ***The executive director***~~One (1) member appointed by the Governor from a list of three (3) persons submitted by the president~~ of the Kentucky Library Association ***or his or her designee***;
 - (l) ***The president of the Council on Postsecondary Education or his or her designee***~~One (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges~~;
 - (m) Four (4) citizens at large ***appointed by the Governor, including one (1) member representing library users with disabilities, one (1) member representing disadvantaged persons, and two (2) members representing library users***; and

- (n) One (1) member, *who shall not be an elected official*, appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators.
- (2) Vacancies *for appointed members* shall be filled by the Governor in the same manner as initial appointments are made. All *appointed* members shall serve for a term of *three (3)*~~four (4)~~ years, *except when making the appointments under subsection (3) of this section, two (2)*~~provided that one (1) of the initial appointments~~ shall be for a term of ~~four (4) years, one (1) for~~ three (3) years, *two (2)*~~one (1)~~ for two (2) years, and one (1) for one (1) year.
- (3) *On the effective date of this Act, all terms of gubernatorial appointees made prior to the effective date of this Act shall expire, and the Governor shall appoint five (5) members to the commission in accordance with paragraphs (m) and (n) of subsection (1) of this section.*
- (4) The commission shall *be the state advisory council on libraries and shall* advise the Department for Libraries and Archives on matters relating to *federal and state library development issues*, archives and records management, *federal and state funding, public library standards, and other federal and state library service issues*. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

➔Section 4. KRS 61.810 is amended to read as follows:

- (1) All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times, except for the following:
 - (a) Deliberations for decisions of the Kentucky Parole Board;
 - (b) Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency;
 - (c) Discussions of proposed or pending litigation against or on behalf of the public agency;
 - (d) Grand and petit jury sessions;
 - (e) Collective bargaining negotiations between public employers and their employees or their representatives;
 - (f) Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's, or student's right to a public hearing if requested. This exception shall not be interpreted to permit discussion of general personnel matters in secret;
 - (g) Discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion, or upgrading of the business;
 - (h) State and local cabinet meetings and executive cabinet meetings;
 - (i) Committees of the General Assembly other than standing committees;
 - (j) Deliberations of judicial or quasi-judicial bodies regarding individual adjudications or appointments, at which neither the person involved, his representatives, nor any other individual not a member of the agency's governing body or staff is present, but not including any meetings of planning commissions, zoning commissions, or boards of adjustment;
 - (k) Meetings which federal or state law specifically require to be conducted in privacy;
 - (l) Meetings which the Constitution provides shall be held in secret;~~and~~
 - (m) That portion of a meeting devoted to a discussion of a specific public record exempted from disclosure under KRS 61.878(1)(m). However, that portion of any public agency meeting shall not be closed to a member of the Kentucky General Assembly; *and*

(n) *Meetings of any selection committee, evaluation committee, or other similar group established under KRS Chapter 45A or 56 to select a successful bidder for award of a state contract.*

- (2) Any series of less than quorum meetings, where the members attending one (1) or more of the meetings collectively constitute at least a quorum of the members of the public agency and where the meetings are held for the purpose of avoiding the requirements of subsection (1) of this section, shall be subject to the requirements of subsection (1) of this section. Nothing in this subsection shall be construed to prohibit discussions between individual members where the purpose of the discussions is to educate the members on specific issues.

➔Section 5. KRS 61.878 is amended to read as follows:

- (1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:
- (a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;
 - (b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;
 - (c)
 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;
 2. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:
 - a. In conjunction with an application for or the administration of a loan or grant;
 - b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;
 - c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or
 - d. For the grant or review of a license to do business.
 3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;
 - (d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;
 - (e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;
 - (f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;
 - (g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;

- (h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;
- (i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;
- (j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;
- (k) All public records or information the disclosure of which is prohibited by federal law or regulation;
- (l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly;
- (m)
 - 1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:
 - a. Criticality lists resulting from consequence assessments;
 - b. Vulnerability assessments;
 - c. Antiterrorism protective measures and plans;
 - d. Counterterrorism measures and plans;
 - e. Security and response needs assessments;
 - f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;
 - g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and
 - h. Records when their disclosure will expose a vulnerability referred to in this subparagraph and that describe the exact physical location of hazardous chemical, radiological, or biological materials.
 - 2. As used in this paragraph, "terrorist act" means a criminal act intended to:
 - a. Intimidate or coerce a public agency or all or part of the civilian population;
 - b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or
 - c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.
 - 3. On the same day that a public agency denies a request to inspect a public record for a reason identified in this paragraph, that public agency shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the Kentucky Office of Homeland Security and the Attorney General.

4. Nothing in this paragraph shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.
 5. The exemption established in this paragraph shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this paragraph under the Open Records Law;~~and~~
- (n) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law;
 - (o) ***Records of a procurement process under KRS Chapter 45A or 56. This exemption shall not apply after:***
 1. ***A contract is awarded; or***
 2. ***The procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited; and***
 - (p) ***Communications of a purely personal nature unrelated to any governmental function.***
- (2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.
 - (3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, lay-offs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.
 - (4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.
 - (5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.
- ➔Section 6. KRS 56.8169 is amended to read as follows:
- (1) In conducting the built-to-suit process, the commissioner of the Department for Facilities Management, after consultation with the agency or agencies for whose use the space is sought, shall arrive at a request for proposals.
 - (2) The request for proposals shall indicate the relative importance of evaluation factors.
 - (3) A request for proposals may be amended at any time prior to the deadline for the submission of proposals.
 - (4) In soliciting the interest of firms to carry out a built-to-suit, the department shall comply with the procedures established in this subsection.
 - (a) The department shall provide adequate public notice of a request for proposals and notice of the materials that the department will provide to a firm to assist that firm in responding to a request for proposals. Those materials shall include, but not be limited to, the request for proposals and the proposal evaluation sheet to be used by the selection committee. The notice shall also set a time and date for a written response to the notice.
 - (b) The Department for Facilities Management may use any means available to notify firms that a notice has been given.

- (5) To respond to a notice, a firm, or its representative, shall respond on or before the time and date designated in the notice. The response shall be in a form determined by the department and shall provide the firm's name and address.
- (6) All written responses submitted on or before the time and date designated shall be opened or downloaded at the same time, publicly read or posted, and kept on file by the department. A firm which fails to meet the deadline shall be barred from the procurement process.
- (7) The department shall transmit to all firms that responded in time a request for proposals.
- (8) After the request for proposals have been transmitted, but before written proposals are submitted, the commissioner, and his staff, may hold any meetings, discussions, or negotiations that they deem appropriate with the firms.
- (9)
 - (a) The commissioner shall invite each firm to submit a written proposal, on a form created by the department, on or before the time and date set forth in the invitation. A form shall be provided to each firm.
 - (b) A firm that does not submit a written proposal, on a form created by this department, on or before the deadline shall be barred from the procurement process.
 - (c) Employees of the department and the members of the selection committee shall keep the written proposals confidential until the lease is awarded.
- (10) The commissioner shall designate a department employee to determine which firms have filed, in a timely fashion, both a response to the public notice and a written proposal on a form created by the department. The designated employee shall create a list of the firms which have done so and certify the list.
- (11) The department shall organize the selection committee's first meeting. At that meeting, the selection committee shall:
 - (a) Elect from its members a chairman and a vice chairman who shall hold their positions for the duration of the selection process;
 - (b) Be provided with:
 - 1. The certified list of firms;
 - 2. The firms' written proposals submitted in response to a request for proposals;
 - 3. The request for proposals;
 - 4. The notice of request for proposals;
 - 5. The proposal evaluation sheets; and
 - 6. A notice from the commissioner informing the committee that the selection process is governed by KRS 56.800 to 56.823 and 56.990; and
 - (c) Discuss the future conduct of its affairs.
- (12) The selection committee shall meet ~~in executive session~~ to:
 - (a) Evaluate the materials with which it has been provided;
 - (b) Select, but not rank, the three (3) most qualified firms, based upon the evaluation factors set forth in the request for proposals; and
 - (c) Notify the department of the three (3) finalists.
- (13) The department shall notify each firm which responded to the request for proposals, informing the firm of:
 - (a) The three (3) finalists; and
 - (b) The rest of the procedure that will be followed in the awarding of the built-to-suit lease.
- (14) The selection committee shall interview the three (3) finalists, preferably on the same day. The finalists shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the finalist and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview.
- (15) The selection committee shall meet ~~in executive session~~ to:

- (a) Rank the three (3) finalists based on the weighted evaluation factors in the request for proposals; and
 - (b) Forward the ranking to the department.
- (16) (a) The commissioner shall:
- 1. Award the built-to-suit lease to the top ranked finalist; or
 - 2. Request best-and-final offers.
- (b) The commissioner shall request best-and-final offers only of the three (3) finalists. The commissioner's written request shall include his reason for requesting best-and-final offers, and shall state a time and date by which all best-and-final offers will have to be received. A firm that does not submit a best-and-final offer by the deadline shall not be awarded the built-to-suit lease.
- (c) Employees of the department and the members of the selection committee shall keep the best-and-final offers confidential until the lease is awarded.
- (d) The selection committee shall meet ~~in executive session~~ to assess all the materials with which it was provided pursuant to subsection (11)(b) of this section, as well as the request for best-and-final offers and best-and-final offers. The committee shall rank the best-and-final offers of the three (3) finalists based on the weighted evaluation factors in the request for proposals. If the committee determines that the top ranked best-and-final offer is adequate, the committee shall forward the name of the firm that submitted the top ranked best-and-final offer to the department. If the committee determines that the top ranked firm's best-and-final offer is inadequate, the process shall end.
- (e) The commissioner shall award the built-to-suit lease to the firm chosen by the selection committee.
- (17) After the best firm has been selected, the department shall notify the finalists, informing them of:
- (a) Which firm has been selected for the proposed lease; and
 - (b) The rest of the procedure that will be followed in the awarding of the lease.

(18) *Section 5 of this Act shall govern the procurement process set out in this section.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Jackson Hall at Kentucky State University is designated the Kentucky Museum of African American History.

➔Section 8. The Alumni House at Kentucky State University is named and designated the Francis Marion Wood Welcome Center and Alumni House.

➔Section 9. The following KRS section is repealed:

173.810 State Advisory Council on Libraries.

➔Section 10. All terms of members of the Kentucky State Advisory Council appointed under KRS 173.810 shall expire on the effective date of this Act.

➔Section 11. The General Assembly confirms Executive Order 2017-325, dated May 30, 2017, which establishes the Public Protection Cabinet, Office of Administrative Hearings and the Public Protection Cabinet, Office of Legal Services, Professional Licensing Division, to the extent it is not otherwise confirmed by this Act.

➔Section 12. The General Assembly hereby directs the Interim Joint Committee on State Government to study the issue of personal devices in the Open Records Act during the 2018 interim.

Signed by Governor April 26, 2018.

CHAPTER 177

(HB 306)

AN ACT relating to STABLE Kentucky accounts.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "STABLE Kentucky account" means an account established by or for the benefit of an eligible individual, as that term is defined by 26 U.S.C. sec. 529A, and established and maintained by the Commonwealth of Kentucky or pursuant to any agreement between the Commonwealth and any other state.*
- (2) *A STABLE Kentucky Account and any investment income earned on a STABLE Kentucky Account shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions.*
- (3) *Distributions from a STABLE Kentucky Account shall not be subject to Kentucky income tax if the distributions are for qualified disability expenses as defined by 26 U.S.C. sec. 529A.*
 - (a) *A rollover of funds from one STABLE Kentucky Account to another STABLE Kentucky Account or to an account established under 26 U.S.C. sec. 529 shall not be treated as a distribution so long as:*
 1. *The funds are being transferred into an account for:*
 - a. *The same eligible individual; or*
 - b. *An eligible individual who is a member of the same household; and*
 2. *The amount is paid into the new account within sixty (60) days of being removed from the original account.*
 - (b) *Any change in the designated beneficiary of a STABLE Kentucky Account shall not be treated as a distribution for purposes of taxation so long as the new beneficiary is a member of the same household.*

Signed by Governor April 26, 2018.

CHAPTER 178

(HB 323)

AN ACT relating to crimes affecting insurance.

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

➔Section 1. KRS 304.47-020 is amended to read as follows:

- (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance act" if he or she engages in any of the following, including but not limited to matters relating to workers' compensation:
 - (a) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, Kentucky Claims Commission, Special Fund, or any agent thereof:~~;~~
 1. Any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or from a "self-insurer" as defined by KRS Chapter 342, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim; *or*
 - ~~[(b) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to an insurer, Kentucky Claims Commission, or any agent thereof,]~~
 2. Any statement as part of, or in support of, an application for an insurance policy, for renewal, reinstatement, or replacement of insurance, or in support of an application to a lender for money to pay a premium, knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the application;
 - ~~(b)~~~~[(c)]~~ Knowingly and willfully transacts any contract, agreement, or instrument which violates this title;
 - ~~(c)~~~~[(d)]~~ Knowingly and with intent to defraud or deceive:~~;~~

1. Receives money for the purpose of purchasing insurance, and fails to obtain insurance;
 - ~~[(e) — Knowingly and with intent to defraud or deceive,]~~
 2. Fails to make payment or disposition of money or voucher as defined in KRS 304.17A-750, as required by agreement or legal obligation, that comes into his or her possession while acting as a licensee under this chapter;
 3. *Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or to the commissioner, any statement, knowing that the statement contains any false, incomplete, or misleading information concerning any material fact or thing, as part of, or in support of one (1) or more of the following:*
 - a. *The rating of an insurance policy;*
 - b. *The financial condition of an insurer;*
 - c. *The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one (1) or more lines of insurance in all or part of this Commonwealth by an insurer; or*
 - d. *A document filed with the commissioner; or*
 4. *Engages in any of the following:*
 - a. *Solicitation or acceptance of new or renewal insurance risks on behalf of an insolvent insurer; or*
 - b. *Removal, concealment, alteration, tampering, or destruction of money, records, or any other property or assets of an insurer;*
 - ~~(d)[(f)]~~ Issues or knowingly presents fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, insurance binders, or any other documents that purport to evidence insurance;
 - ~~(e)[(g)]~~ Makes any false or fraudulent representation as to the death or disability of a policy or certificate holder in any written statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;
 - ~~(f)[(h)]~~ Engages in unauthorized insurance, as *set forth*~~[defined]~~ in KRS 304.11-030;
 - ~~[(i) — Knowingly and with intent to defraud or deceive, presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or to the commissioner, any statement, knowing that the statement contains any false, incomplete, or misleading information concerning any material fact or thing, as part of, or in support of one (1) or more of the following:~~
 - ~~1. — The rating of an insurance policy;~~
 - ~~2. — The financial condition of an insurer;~~
 - ~~3. — The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one (1) or more lines of insurance in all or part of this Commonwealth by an insurer; or~~
 - ~~4. — A document filed with the commissioner;~~
 - ~~(j) — Knowingly and with intent to defraud or deceive, engages in any of the following:~~
 - ~~1. — Solicitation or acceptance of new or renewal insurance risks on behalf of an insolvent insurer; or~~
 - ~~2. — Removal, concealment, alteration, tampering, or destruction of money, records, or any other property or assets of an insurer;] or~~
 - ~~(g)[(k)]~~ Assists, abets, solicits, or conspires with another to commit a fraudulent insurance act in violation of this subtitle.
- (2) (a) Except as provided in paragraphs (b) and (c) of this subsection, a person convicted of a violation of subsection (1) of this section shall be guilty of a misdemeanor where the aggregate of the claim, benefit, or money referred to in subsection (1) of this section is less than or equal to five hundred dollars (\$500), and shall be punished by:
1. Imprisonment for not more than one (1) year;

2. a fine, per occurrence, of not more than one thousand dollars (\$1,000) per individual nor five thousand dollars (\$5,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.
- (b) Except as provided in paragraph (c) of this subsection, where the claim, benefit, or money referred to in subsection (1) of this section exceeds an aggregate of five hundred dollars (\$500), a person convicted of a violation of subsection (1) of this section shall be guilty of a felony and shall be punished by:
1. Imprisonment for not less than one (1) nor more than five (5) years;
 2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation or twice the amount of gain received as a result of the violation, whichever is greater; or
 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of this paragraph.
- (c) Any person, with the purpose to establish or maintain a criminal syndicate, or to facilitate any of its activities, as set forth in KRS 506.120(1), shall be guilty of engaging in organized crime, a Class B felony, and shall be punished by:
1. Imprisonment for not less than ten (10) years nor more than twenty (20) years;
 2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000) per individual nor one hundred thousand dollars (\$100,000) per corporation, or twice the amount of gain received as a result of the violation; whichever is greater; or
 3. Both imprisonment and a fine, as set forth in subparagraphs 1. and 2. of this paragraph.
- (d) In addition to imprisonment, the assessment of a fine, or both, a person convicted of a violation of paragraph (a), (b), or (c) of subsection (2) of this section may be ordered to make restitution to any victim who suffered a monetary loss due to any actions by that person which resulted in the adjudication of guilt, and to the division for the cost of any investigation. The amount of restitution shall equal the monetary value of the actual loss or twice the amount of gain received as a result of the violation, whichever is greater.
- (3) Any person damaged as a result of a violation of any provision of this section~~—when there has been a criminal adjudication of guilt~~ shall have a cause of action to recover compensatory damages, plus all reasonable investigation and litigation expenses, including attorneys' fees, at the trial and appellate courts.
- (4) The provisions of this section shall also apply to any agent, unauthorized insurer or its agents or representatives, or surplus lines carrier who, with intent, injures, defrauds, or deceives any claimant with regard to any claim. The claimant shall have the right to recover the damages provided in subsection (3) of this section.

Signed by Governor April 26, 2018.

CHAPTER 179

(HB 334)

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

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

➔Section 1. There is appropriated out of the general fund and the transportation fund in the State Treasury for the purpose of compensating persons and companies named below for claims which have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations

against which the claims were chargeable, or the lack of an appropriate procurement document in place, the amounts listed below:

Alpha Mechanical Services, Inc.	
7200 Distribution Drive	
Louisville, KY 40258-2827	\$4,130.00
Baptist Health Medical Group	
P.O. Box 950243	
Louisville, KY 40295	\$1,925.00
Britton Johnson PLLC	
200 West Vine Street	
Lexington, KY 40507	\$4,833.10
Carnaby Square Shopping Center	
5710 Wooster Pike, Suite 121	
Cincinnati, OH 45227	\$41,718.52
Cunningham Lindsey US Inc.	
2897 Momentum Place	
Chicago, IL 60689-5328	\$6,519.16
D.J. Geiger and Company, LLC	
1880 Fort Harrods Drive	
Lexington, KY 40503	\$1,162.50
National Highway Institute	
1310 North Courthouse Road, Suite 300	
Arlington, VA 22201	\$7,700.00
Paul Miller Ford, Inc.	
975 East New Circle Road	
Lexington, KY 40505	\$5,474.49
Williams Mullen	
P.O. Box 800	
Richmond, VA 23218-0800	\$625.00

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

	Amount
Check #EA 11454140 dated December 8, 2011	
Ali, Hassan S and Saman	
622 Bellevue Drive	
Paducah, KY 42001	\$137.00
Check #T1 1880954 dated May 19, 2003	
Arensman, George	
1387 Highwater Road	

New Albany, IN 47150-9206	\$90.50
Check #BA 11075875 dated June 17, 2011	
Associated Pathologists	
Attn: Angela Aldridge	
5301 Virginia Way, Suite 300	
Brentwood, TN 37027	\$74,127.67
Check #P1 12500157 dated March 30, 2011	
Burnam II, Leslie R	
PO Box 1492	
Cadiz, KY 42211	\$239.90
Check #G1 6852579 dated June 16, 2004	
Cassady, Lonna	
175 Holly Springs Ch Road	
Brownsville, KY 42210	\$20.00
Check #TA 14670485 dated October 25, 2011	
Chapman, John D and S	
7323 Kavanaugh Road	
Crestwood, KY 40014	\$328.00
Check #P1 8204506 dated January 23, 2004	
Collins, Jennifer S	
1697 West Sandcroft Drive	
Charleston, SC 29407	\$540.29
Check #T1 3730662 dated June 28, 2005	
Cooper, Ronald C	
3159 Highway 17 North	
Demossville, KY 41033	\$600.00
Check #EA 11452567 dated November 10, 2011	
Copeland, Rose M	
220 East Third Street	
Sacramento, KY 42372	\$400.00
Check #TA 15034214 dated April 2, 2012	
Copeland, Rose M	
220 East Third Street	
Sacramento, KY 42372	\$10.00
Check #G1 12582677 dated August 29, 2007	
Clarence Dalton Trust	
C/O Diane Bengé	
66 Barry Lane	
Nancy, KY 42544	\$323.82

Check #P1 9083073 dated January 9, 2006

Daulton, Elgean

C/O Diane Bengé

66 Barry Lane

Nancy, KY 42544

\$589.56

Check #P1 9099922 dated January 23, 2006

Daulton, Elgean

C/O Diane Bengé

66 Barry Lane

Nancy, KY 42544

\$580.56

Check #P1 9228482 dated May 22, 2006

Daulton, Elgean

C/O Diane Bengé

66 Barry Lane

Nancy, KY 42544

\$580.55

Check #P1 11109087 dated October 13, 2006

Daulton, Elgean

C/O Diane Bengé

66 Barry Lane

Nancy, KY 42544

\$580.55

Check #T1 13108213 dated March 31, 2009

Eversole, Clarence C and S

3490 Big Creek Road

Hazard, KY 41701

\$137.00

Check #E1 2081145 dated August 16, 2004

Hayden, Carl D and Linda W

1613 Norris Avenue

Owensboro, KY 42303-0974

\$109.00

Check #EA 11439566 dated July 29, 2011

Hayden, Carl D and Linda W

1613 Norris Avenue

Owensboro, KY 42303-0974

\$38.00

Check #T1 13929499 dated April 21, 2010

Henderson, Michael and Gera

164 Keith Way

Tollesboro, KY 41189

\$43.00

Check #T1 4477176 dated May 10, 2006

Holloway, Richard T and D R

PO Box 100

Finchville, KY 40022	\$332.00
Check #T1 14466762 dated April 8, 2011	
Johanson, Art C and Susan D	
28885 Hartley Road	
Salem, OH 44460	\$220.00
Check #BT 0109572 dated December 24, 1997	
Estate of Roger A Kennedy	
C/O Joe Brown, Executor	
707 Wooded View Drive	
Borden, IN 47106	\$71.51
Check #T 6944692 dated May 24, 1999	
Estate of Roger A Kennedy	
C/O Joe Brown, Executor	
707 Wooded View Drive	
Borden, IN 47106	\$35.76
Check #P1 7356137 dated July 9, 2002	
Garcia Jr, Lovegildo S	
145 Mayapple Lane	
Elizabethtown, KY 42701	\$161.67
Check #P1 12026345 dated July 15, 2009	
Garcia Jr, Lovegildo S	
145 Mayapple Lane	
Elizabethtown, KY 42701	\$179.03
Check #BA 11090834 dated August 10, 2012	
Insight Kentucky	
Attn: Brent Trask	
12405 Powerscout Drive	
St. Louis, MO 63131	\$2,883.34
Check #E1 11420138 dated April 26, 2011	
Knowlton, Timothy W	
722 Melrose Avenue	
Lexington, KY 40502	\$83.00
Check #TA 15098355 dated April 20, 2012	
Marcum, David B and P S	
982 Cane Run Road	
Georgetown, KY 40324	\$423.00
Check #GA 17411771 dated August 9, 2012	
McLean County Public Library	
PO Box 188	

Livermore, KY 42352	\$400.55
Check #BA 11084012 dated February 7, 2012	
Papa John's	
C/O Doris Brown, Department of Revenue	
501 High Street	
Frankfort, KY 40601	\$6,531.11
Check #TA 15119169 dated April 25, 2012	
Pasley, Donald T and E	
5805 Ecton Road	
Winchester, KY 40391	\$36.00
Check #GA 16867328 dated January 25, 2012	
Phillips, Carolyn (Deceased)	
C/O Victor Phillips	
112 Seven Oaks Drive	
Shelbyville, KY 40065	\$86.64
Check #T1 1849345 dated May 13, 2003	
Pike, Barbara N	
102 Mine Ridge Road	
Central City, KY 42330	\$107.00
Check #T1 12583969 dated May 7, 2008	
Pike, Barbara N	
102 Mine Ridge Road	
Central City, KY 42330	\$141.00
Check #TA 14729985 dated February 2, 2012	
Ratliff, Chelsea	
112 Forest Hill Road	
Manchester, KY 40962	\$49.00
Check #TA 15236943 dated August 16, 2012	
Robertson, Mary	
3070 Lakecrest Circle #248	
Lexington, KY 40513	\$259.00
Check #T1 14580864 dated May 6, 2011	
Rose, Donna L	
7601 Northern Spy Court	
Louisville, KY 40228-2249	\$384.00
Check #T1 9308314 dated May 16, 2001	
Schmitt Jr., Ludwig	
2463 Highway 1568	
Monticello, KY 42633	\$136.00

Check #BA 11084357 dated February 20, 2012

Time Warner Cable

Attn: Brent Trask

12405 Powerscout Drive

St. Louis, MO 63131

\$3,411.58

Check #BA 11087369 dated May 4, 2012

Time Warner Cable

Attn: Brent Trask

12405 Powerscout Drive

St. Louis, MO 63131

\$1,419.99

Check #BA 11085587 dated June 16, 2012

Time Warner Cable

Attn: Brent Trask

12405 Powerscout Drive

St. Louis, MO 63131

\$1,169.35

Check #T1 13802536 dated March 29, 2010

Warren, Joseph Robert and Donna

6811 Greenlawn Road

Louisville, KY 40222

\$185.00

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

Signed by Governor April 26, 2018.

CHAPTER 180

(HB 345)

AN ACT relating to surplus lines.

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

➔Section 1. KRS 304.10-030 is amended to read as follows:

As used in this subtitle:

- (1) "Admitted insurer" means an insurer that is licensed or authorized to transact the business of insurance in Kentucky.
- (2) "Affiliate" means, with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured.
- (3) "Broker" means a surplus lines broker duly licensed as such under this subtitle.
- (4) "Exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:
 - (a) The person employs or retains a qualified risk manager to negotiate insurance coverage;

- (b) The person has paid aggregate nationwide commercial property and casualty insurance premium in excess of one hundred thousand dollars (\$100,000) in the immediately preceding twelve (12) months;
 - (c) 1. The person meets at least one (1) of the following criteria:
 - a. The person possesses a net worth in excess of twenty million dollars (\$20,000,000), adjusted pursuant to subparagraph 2. of this paragraph;
 - b. The person generates annual revenues in excess of fifty million dollars (\$50,000,000), as adjusted pursuant to subparagraph 2. of this paragraph;
 - c. The person employs more than five hundred (500) full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand (1,000) employees in the aggregate;
 - d. The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least thirty million dollars (\$30,000,000), adjusted pursuant to subparagraph 2. of this paragraph; or
 - e. The person is a municipality with a population in excess of fifty thousand (50,000) persons.
 - 2. Effective on the fifth January 1 occurring after July 12, 2012, and each fifth January 1 occurring thereafter, the amounts in subparagraph 1.a., b., and d. of this paragraph shall be adjusted to reflect the percentage change for the five (5) year period in the consumer price index for all urban consumers published by the Bureau of Labor Statistics of the Department of Labor.
 - (5) To "export" means to place in an unauthorized insurer under this Surplus Lines Law insurance covering a subject of insurance resident, located or to be performed in Kentucky.
 - (6) "Home state" means:
 - (a) 1. The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or
 - 2. If one hundred percent (100%) of the insured risk is located out of the state referred to in subparagraph 1. of this paragraph, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated; or
 - (b) If more than one (1) insureds from an affiliated group are named insureds on a single nonadmitted insurance contract, the home state, as determined pursuant to paragraph (a) of this section, of the member of the affiliated group that has the largest percentage of premium attributed to it under the insurance contract.
 - (7) "Nonadmitted insurance" means:
 - (a) Any property and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer eligible to accept the insurance~~[-]; and~~
 - (b) **Any health and life insurance providing disability coverage:**
 - 1. **With policy limits in excess of those available from an admitted insurer;**
 - 2. **With participation limits; or**
 - 3. **Insuring occupations for which coverage is not procurable through an admitted insurer.**
 - (8) "Nonadmitted insurer" means an insurer that is not authorized or admitted to transact the business of insurance in Kentucky.
 - (9) **"Surplus lines" means nonadmitted insurance sold to, solicited by, or negotiated with an insured whose home state is Kentucky.**
- ➔Section 2. KRS 304.10-040 is amended as follows:
- (1) ~~Nonadmitted insurance sold to, solicited by, or negotiated with an insured whose home state is Kentucky, hereinafter designated "~~Surplus Lines~~,"~~ may be procured from a nonadmitted insurer subject to the following conditions:
 - (a)~~[(1)]~~ The insurance ~~shall~~~~[- must]~~ be procured through a licensed surplus lines broker;~~[-]~~

~~(b)(2)~~ *After a diligent effort, a licensed agent with property and casualty lines of authority, or with health and life lines of authority if procuring disability insurance, has been unable to procure the full amount of insurance required from an insurer that is authorized to transact, and that actually writes, that kind and class of insurance in this state. If the licensed agent is able to procure an amount of insurance less than the full amount, only the excess amount needed to procure the full amount shall be exported;* ~~[The full amount of insurance required must not be procurable, after diligent effort by a licensed agent with a line of authority for property and casualty has been made to do so, from among the insurers authorized to transact and actually writing that kind and class of insurance in this state, and the amount of insurance exported shall be only the excess over the amount procurable from authorized insurers.]~~

~~(c)(3)~~ The insurance ~~shall~~~~[must]~~ not be~~[so]~~ exported for the *sole* purpose of securing~~[advantages]~~ either~~[as to]~~:

1.~~(a)~~ A lower premium rate than would be accepted by an authorized insurer; or

2.~~(b)~~ *More advantageous* terms of the insurance contract.

~~(2)(4)~~ The requirements of subsection ~~(1)(2)~~ of this section related to a diligent effort shall not be required for coverage procured or placed for an exempt commercial purchaser if:

- (a) The broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and
- (b) The exempt commercial purchaser has subsequently requested in writing that the broker procure or place insurance from a nonadmitted insurer.

➔Section 3. KRS 304.10-060 is amended to read as follows:

- (1) The commissioner may by order declare eligible for export generally and without compliance with the provisions of *subsection (1)(b) and (c) of Section 2 of this Act*~~[subsections (2) and (3) of KRS 304.10-040]~~, and 304.10-050, any class or classes of insurance coverage or risk for which he or she finds, after a hearing of which notice was given to each insurer authorized to transact such class or classes in this state, that there is not a reasonable or adequate market among authorized insurers either as to acceptance of the risk, contract terms or premium or premium rate. Any such order shall continue in effect during the existence of the conditions upon which predicated, but subject to earlier termination by the commissioner.
- (2) The broker shall file with or as directed by the commissioner a memorandum as to each such coverage placed by the broker in an unauthorized insurer, in such form and content as the commissioner may reasonably require for the identification of the coverage and determination of the tax payable to the state relative thereto.
- (3) The broker, or a licensed agent of the authorized insurer may also place with authorized insurers any insurance coverage made eligible for export generally under subsection (1) of this section, and without regard to rate or form filings which may otherwise be applicable as to the authorized insurer. As to coverages so placed in an authorized insurer the premium tax thereon shall be reported and paid by the insurer as required generally under KRS Chapter 136.

➔Section 4. KRS 304.10-120 is amended to read as follows:

- (1) Any person may be licensed as a surplus lines broker who:
 - (a) Is a resident of Kentucky or is a nonresident who is not eligible to be issued a license in accordance with KRS 304.9-140; and
 - (b) Is deemed by the commissioner to be competent and trustworthy with respect to the handling of surplus lines.
- (2) Application for the license shall be made to the commissioner on forms as designated and furnished by the commissioner.
- (3) The license fee shall be as specified in KRS 304.4-010.
- (4) The license and licensee shall be subject to the applicable provisions of Subtitle 9 of this chapter.
- (5) Notwithstanding subsection (1) of this section, on or after July 1, 2002, an applicant licensed as a surplus lines broker in the applicant's home state may be issued a nonresident surplus lines broker's license in Kentucky if the applicant's home state issues surplus lines broker licenses to Kentucky residents on the same basis.

- (6) If the resident surplus lines broker fails to maintain his or her agent license with lines of authority for property and casualty, *or health and life for a broker procuring surplus lines insurance providing disability coverage*, *then* the surplus lines broker license shall terminate and shall be promptly surrendered to the commissioner without demand.

➔Section 5. KRS 304.10-180 is amended to read as follows:

~~{(1) For single state risks located solely within this state, }~~Each broker shall pay the following taxes:

~~(1){(a)}~~ A tax at the rate of three percent (3%) on the premiums, assessments, fees, charges, or other consideration deemed part of the premium as defined in KRS 304.14-030, on surplus lines insurance *placed with an insured whose home state is Kentucky* subject to tax transacted by him or her with unauthorized insurers during the preceding calendar quarter as shown by his or her quarterly statement filed with the commissioner in accordance with KRS 304.10-170. The tax shall not be assessed on the premium surcharge tax, the local government premium tax, or any other state or federal tax. The tax shall be remitted to the commissioner within thirty (30) days of the end of each calendar quarter. When collected the tax shall be credited to the insurance regulatory trust fund, as established by KRS 304.2-400;

~~(2){(b)}~~ The premium surcharge tax, to be remitted to the Kentucky Department of Revenue, in accordance with KRS 136.392; and

~~(3){(c)}~~ The local government premium tax, to be remitted to the appropriate city, county, or urban-county government taxing authority, in accordance with KRS 91A.080. Each broker shall be subject to the provisions of this section and KRS 91A.080 and 91A.0802 to 91A.0810 as an insurance company.

~~{(2) For multistate risks, each broker shall pay a tax at the rate of eleven and eight tenths percent (11.8%) on premiums in accordance with the uniform Allocation Formula and other rules adopted by the Surplus Lines Insurance Multi State Compliance Compact Commission established in KRS 304.10-400. The tax collected on multistate risks shall be remitted to the Department of Insurance, which shall no less than semiannually divide and distribute the revenues as follows:~~

~~(a) Twenty five percent (25%) of the tax collected shall be retained by the Department of Insurance and treated as if collected pursuant to subsection (1)(a) of this section;~~

~~(b) Fifteen percent (15%) of the tax collected shall be distributed to the Department of Revenue and treated as if it was collected pursuant to KRS 136.392 and shall be used for the purposes of funding;~~

~~1. The Firefighters Foundation Program fund, as provided by KRS 95A.220 and 95A.262; and~~

~~2. The Law Enforcement Foundation Program Fund as provided by KRS 15.430; and~~

~~(c) Sixty percent (60%) of the tax collected shall be distributed to the Department for Local Government. The Department for Local Government:~~

~~1. Shall determine the share of the tax for each city and county government on a pro rata basis pursuant to a distribution formula that is based upon the percentage of each city's and county's historical local premium tax collections from surplus lines insurance in calendar years 2007, 2008, and 2009, as compared to the total of all local insurance premium taxes on surplus lines insurance collected in calendar years 2007, 2008, and 2009;~~

~~2. Shall exclude any city or county from the distribution that collected a total of less than five hundred dollars (\$500) in insurance premium taxes from surplus lines insurance for calendar years 2007, 2008, and 2009 and the total amount of these city or county collections of less than five hundred dollars (\$500) shall be excluded from the determination of the total local insurance premium tax collections required by this subsection;~~

~~3. Shall not less than semiannually distribute the proceeds to city and county governments for the purposes of funding public safety, including but not limited to:~~

~~a. Police;~~

~~b. Fire;~~

~~c. Emergency 911 services; and~~

~~d. Ambulance services; and~~

- ~~4. May charge a yearly administrative fee equal to one percent (1%) of the total local government portion provided under this subsection, not to exceed ten thousand dollars (\$10,000) per year statewide.]~~

➔Section 6. KRS 304.99-085 is amended to read as follows:

- (1) A broker that fails to file an affidavit as provided by KRS 304.10-050 shall be liable for a penalty fee of one hundred dollars (\$100).
- (2) A broker that exhibits a pattern of failing to file affidavits as provided by KRS 304.10-050 shall be subject to a penalty fee not less than one thousand dollars (\$1,000) or more than five thousand (\$5,000), revocation of license, or both, unless it is shown to the satisfaction of the commissioner that the failure is due to reasonable cause.
- (3) A broker that fails to file a quarterly statement as provided by KRS 304.10-170 shall be liable for a penalty of five hundred dollars (\$500).
- (4) If any broker fails to remit the tax provided by KRS 304.10-180(1)~~[(a)]~~, unless it is shown to the satisfaction of the commissioner that the failure is due to reasonable cause, five percent (5%) of the tax found to be due by the commissioner shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it was filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax; provided, however, that in no case shall a penalty be less than five hundred dollars (\$500).

➔Section 7. The following KRS section is repealed:

304.10-400 Surplus Lines Insurance Multi-State Compliance Compact.

Signed by Governor April 26, 2018.

CHAPTER 181

(HB 356)

AN ACT relating to sex offender registrants.

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

➔Section 1. KRS 17.545 is amended to read as follows:

- (1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility. The measurement shall be taken in a straight line from the nearest property line of the school to the nearest property line of the registrant's place of residence.
- (2) No registrant, as defined in KRS 17.500, nor any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky, shall be on the clearly defined grounds of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility, except with the advance written permission of the school principal, the school board, the local legislative body with jurisdiction over the publicly owned playground, or the day care director that has been given after full disclosure of the person's status as a registrant or sex offender from another state and all registrant information as required in KRS 17.500. As used in this subsection, "local legislative body" means the chief governing body of a city, county, urban-county government, consolidated local government, charter county government, or unified local government that has legislative powers.
- (3) For purposes of this section:
 - (a) The registrant shall have the duty to ascertain whether any property listed in subsection (1) of this section is within one thousand (1,000) feet of the registrant's residence; and
 - (b) If a new facility opens, the registrant shall be presumed to know and, within ninety (90) days, shall comply with this section.

- (4) (a) *Except as provided in paragraph (b) of this subsection, no registrant who is eighteen (18) years of age or older and has committed a criminal offense against a victim who is a minor shall have the same residence as a minor.*
- (b) *A registrant who is eighteen (18) years of age or older and has committed a criminal offense against a victim who is a minor may have the same residence as a minor if the registrant is the spouse, parent, grandparent, stepparent, sibling, stepsibling, or court-appointed guardian of the minor, unless the spouse, child, grandchild, stepchild, sibling, stepsibling, or ward was a victim of the registrant.*
- (c) *This subsection shall not operate retroactively and shall apply only to a registrant that committed a criminal offense against a victim who is a minor after the effective date of this Act.*
- (5) Any person who violates subsection (1) *or* (4) of this section shall be guilty of:
- (a) A Class A misdemeanor for a first offense; and
- (b) A Class D felony for the second and each subsequent offense.
- ~~(6)(5)~~ Any registrant residing within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility on July 12, 2006, shall move and comply with this section within ninety (90) days of July 12, 2006, and thereafter, shall be subject to the penalties set forth under subsection ~~(5)(4)~~ of this section.
- ~~(7)(6)~~ This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in an elementary or secondary education program.

Signed by Governor April 26, 2018.

CHAPTER 182

(HB 402)

AN ACT relating to credit balances for insurers.

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

➔Section 1. KRS 91A.0804 is amended to read as follows:

- (1) The provisions of this section shall provide the sole and exclusive method for the filing of amended returns and requests or assessments by any insurance company, local government, or policyholder for nonpayment, underpayment, or overpayment of any license fees or taxes imposed pursuant to KRS 91A.080 and the appeals from the denial or refusal thereof.
- (2) ~~For tax periods beginning after December 31, 2008, All~~ amended returns, requests for refunds or credits, and assessments shall be made within two (2) years of the due date of the annual reconciliation provided for in KRS 91A.080(8) for the tax period during which the error was made, except that in the case of fraudulent failure to file a return or the filing of a fraudulent return, the underpayment may be assessed at any time. ~~The provisions of this subsection shall not apply to any refund or credit to an insurance company or policyholder or assessment by a local government that is affected by litigation pending on July 15, 2008.~~
- (3) (a) Any insurance company that has paid a license fee or tax imposed by a local government pursuant to KRS 91A.080 may request a refund or credit for any overpayment of a license fee or tax or any payment when no tax was due within the time provided in subsection (2) of this section.
- (b) A request for a refund or credit by an insurance company shall be made by mailing an amended return and supporting documentation to the local government to which the fee or tax was paid. A complete refund request shall include the amended return and supporting documentation showing the total amount of overpayment of license fee or tax that the insurance company believes was erroneously paid and a breakdown of information for each policy upon which a refund or credit is requested, including the location of the risk by street address or, if a street address is unavailable, another appropriate identifier of the physical location, the amount of the erroneous payment, the premium charged, the

amount of tax or fee actually collected, the type or types of risk insured, and the period the policy was in force during the taxable year or years.

- (c) ~~{For refund and credit requests submitted for payments made during tax periods after December 31, 2009, }~~The insurance company shall produce proof that it employed risk location systems or programs meeting the requirements of KRS 91A.0806 during the time for which the refund or credit is requested or a copy of a Department of Insurance order issued pursuant to the administrative regulation promulgated under KRS 91A.0806(3). If the insurance company fails or is unable to produce such proof or a copy of the Department of Insurance order, the local government shall be entitled to keep a penalty in the amount of ten percent (10%) of the refund or credit that would have otherwise been due the insurance company. Any dispute regarding the imposition of a penalty shall be resolved under paragraph (d) of this subsection.
- (d) ***A local government shall notify the insurance company within ninety (90) days whether or not an amended return or request for refund has been accepted.*** If a local government fails to accept the completed amended return or refuses to issue the requested refund or credit within ninety (90) days of its receipt, the insurance company may make application to the Department of Insurance to review the claim. The application shall be filed with the Department of Insurance within thirty (30) days of receipt of the response from the local government or, in the case of a local government's failure to respond, within thirty (30) days of the end of the ninety (90) day period provided in this paragraph. The Department of Insurance shall, within sixty (60) days of the receipt of the complete application, issue an order of final agency action that the request for refund or credit is or is not warranted in whole or in part. The commissioner of the Department of Insurance may grant one (1) extension of thirty (30) days for the issuance of the order. As provided in KRS 304.2-310, either party may file an administrative appeal from the order of the Department of Insurance within sixty (60) days of the issuance of the order.
- (e) ***1. After it has been determined that a refund or credit is owed, insurance companies shall have a right to a full refund of a credit balance no later than one (1) year after the latest of the following:***
- a. The due date of an original quarterly return;***
 - b. The filing date of an original quarterly return; or***
 - c. The filing date of an amended return.***
- 2. A local government may require an insurance company to carry forward a credit balance to subsequent quarters during this one (1) year period, but shall not require an insurance company to carry forward a credit balance past this one (1) year period. The credit balance carried forward may be used to offset amounts that would otherwise be due. The local government shall issue a refund of any credit balance remaining after the carryforward to the insurance company at the conclusion of the one (1) year period.***
- (f) ***If an insurance company submits an affidavit demonstrating that it is unlikely the insurance company will write additional insurance policies in the jurisdiction of the local government in the next twelve (12) month period, refunds or credits for any overpayment of a license fee or tax or any payment when no tax was due shall be distributed by the local government according to the following schedule:***
- 1. If the credit balance is ten percent (10%) or less of the total LGPT revenue receipts of the local government for the most recent full fiscal year, then the refund shall be issued within sixty (60) days of the due date of the return for an original return or within sixty (60) days of the filing date of an amended return. If an amended return has not been accepted within the sixty (60) day period, the refund shall be issued no later than thirty (30) days after the acceptance date, or after the completion of the process described in paragraph (d) of this section, whichever is later.***
 - 2. If the credit balance is greater than ten percent (10%) but less than or equal to twenty-five percent (25%) of the total LGPT revenue receipts of the local government for the most recent full fiscal year, then the refund shall be issued within one hundred twenty (120) days of the due date of the return for an original return or within one hundred twenty (120) days of the filing date of an amended return.***

3. *If the credit balance is greater than twenty-five percent (25%) but less than or equal to fifty percent (50%) of the total LGPT revenue receipts of the local government for the most recent full fiscal year, then the refund shall be issued within two hundred forty (240) days of the due date of the return for an original return or within two hundred forty (240) days of the filing date of an amended return.*
 4. *If the credit balance is greater than fifty percent (50%) of the total LGPT revenue receipts of the local government for the most recent full fiscal year, then the local government may take the full one (1) year period to issue the full refund, with at least one-half (1/2) of the refund to be paid within two hundred forty (240) days and the other half by the conclusion of the one (1) year period.*
- (g) *A local government and an insurance company may enter into a written agreement providing for an alternative payment plan.*
 - (h) *The total LGPT revenue received by the local government shall be documented and certified by the local government if a tiered payment plan is used under paragraph (f) of this subsection.*
 - (i) No insurance company shall apply a credit to taxes or fees imposed by KRS 91A.080 without written agreement from the local government, without an order of final agency action from the Department of Insurance order that the refund is due, or without an administrative ruling from the Department of Insurance order that a refund is due. Each violation of this paragraph shall be punishable as provided in KRS 91A.080(7)(b) and (c).
- (4) (a) Any policyholder who has paid to an insurance company a license fee or tax imposed by a local government pursuant to KRS 91A.080 may request a refund or credit for an overpayment of a license fee or tax or any payment when no tax was due within the time provided in subsection (2) of this section.
 - (b) A request for a refund or credit by a policyholder shall be made by mailing the request to the insurance company to which the fee or tax was paid. The request shall include the name of the policyholder, the address of the location of the risk insured, the amount of overpayment of license fee or tax that was erroneously paid, the dates of coverage, the amount of the fee or tax that was paid, and the type of risk insured.
 - (c) If an insurance company fails to make payment or to grant credit to a policyholder as requested within ninety (90) days of its receipt, the policyholder may make application to the Department of Insurance to review the request. The application shall be filed with the Department of Insurance within thirty (30) days of receipt of the response from the insurance company or, in the case of an insurance company's failure to respond, within thirty (30) days of the end of the ninety (90) day period provided in this paragraph. The Department of Insurance shall, within sixty (60) days of the receipt of the complete application, issue an order of final agency action that the request for refund or credit is or is not warranted in whole or in part. The commissioner of the Department of Insurance may grant one (1) extension of thirty (30) days for the issuance of the order. As provided in KRS 304.2-310, either party may file an administrative appeal from the order of the Department of Insurance within sixty (60) days of the issuance of the order.
- (5) (a) If a local government has a reasonable basis to believe that a license fee or tax imposed by it in accordance with KRS 91A.080 has not been paid or has been underpaid, the local government shall request the Department of Insurance to conduct an audit pursuant to the provisions of KRS 91A.080(7) within the time provided in subsection (2) of this section.
 - (b) If the findings of the audit show that an insurance company did not pay or underpaid the local government, the local government may send an assessment by mail to the insurance company. The notice of assessment shall state the total amount of payment due from the insurance company based upon the findings of the audit conducted pursuant to KRS 91A.080(7), the geographic area affected, and the applicable license fee or tax rate.
 - (c) The insurance company may respond to the assessment by either paying the assessment in full within ninety (90) days of its receipt or by filing an appeal of the findings of the audit and the assessment with the Department of Insurance within ninety (90) days of the receipt of the assessment. An insurance company appealing the audit findings and assessment shall make application to the Department of Insurance and provide notice of the challenge to the local government by certified mail. The Department of Insurance shall, within sixty (60) days of the receipt of the completed application, issue

an order of final agency action upon the findings of the audit and a determination that the assessment is or is not warranted in whole or in part. The commissioner of the Department of Insurance may grant one (1) extension of thirty (30) days for the issuance of the order. As provided in KRS 304.2-310, either party may file an administrative appeal from the order of the Department of Insurance within sixty (60) days of the issuance of the order.

- (d) If the insurance company fails to make the full payment as requested by the local government or fails to file an application of appeal with the Department of Insurance within ninety (90) days of receipt of the assessment, the findings of the audit and the assessment shall be deemed final, and the local government may provide notification to the Department of Insurance to impose a penalty in accordance with KRS 91A.080(7)(c). Any penalty imposed because of an insurance company's failure to timely pay the assessment shall be in addition to any penalties imposed as a result of the audit. The notification shall be filed with the Department of Insurance within thirty (30) days of the end of the ninety (90) day period provided in paragraph (c) of this subsection. The Department of Insurance shall issue an order to the insurance company to pay the assessment and any additional penalties imposed within thirty (30) days of the order, or the Department of Insurance may revoke the license of the insurance company under the provisions of KRS 91A.080(7) and KRS Chapter 304.
 - (e) The Department of Insurance may determine the scope of any audit requested under this subsection and KRS 91A.080. Nothing in this chapter shall preclude the Department of Insurance from exercising its discretion to conduct an audit or examination of any insurance company under its authority as otherwise provided in KRS Chapter 304.
- (6) An administrative hearing held pursuant to this section shall be conducted pursuant to KRS Chapter 13B. The hearing officer may compel any information necessary to make a determination. Information concerning rates, the names and addresses as of policyholders, and the expiration date of policies shall be proprietary and confidential, shall not be divulged to any person or organization not a party to the hearing, shall not be subject to disclosure or to the provisions of KRS 61.870 to 61.884, and the record shall be sealed at the conclusion of the hearing.
- (7) (a) If a refund or credit is received by an insurance company that passed the fee or tax on to the policyholder, and the amount refunded or credited is not owed to another local government, the insurance company shall pass the full amount of the refund or credit, including any collection fee that has been retained by the insurance company pursuant to KRS 91A.080(4), on to the policyholder from whom the fee or tax was collected within ninety (90) days of receipt of the refund or credit.
- (b) For a refund or credit received by an insurance company ~~for tax periods after December 31, 2009,~~ that is not owed to another local government, the insurance company shall pay a penalty fee of ten percent (10%) of the total amount of the refund or credit due to the policyholder if the insurance company is unable to produce proof of the use of a risk location system as required under subsection (3)(c) of this section.
- (c) ***For all refunds or credits passed on to policyholders under this subsection, the insurance company shall document that the refund or credit has been passed on to the policyholder, including any collection fee or penalty, and shall provide the documentation to the local government upon request by the local government. The insurance company shall retain this documentation for a period of two (2) years.***
- (8) No legal action shall be filed by any party prior to the exhaustion of all administrative remedies provided under this section.
- (9) (a) Information on specific policies and policyholders provided to local governments pursuant to subsection (3) of this section shall be considered confidential and proprietary information of an insurance company and shall not be disclosed or subject to disclosure under KRS 61.870 to 61.884. No present or former official or employee of a local government or any other person shall, intentionally and without authorization, inspect or divulge any information acquired by him or her of the affairs of any insurance company, or information regarding specific policies, policyholders, tax schedules, returns, or reports required to be filed with a local government, or any information produced by a hearing or investigation, insofar as the information may have to do with the proprietary information of the insurance company. All county judges/executive, mayors, local government legislative body members, and local government employees whose duties include the fiscal affairs of their local government, shall be deemed to have the necessary authorization to inspect such information. Any person who violates the

provisions of this paragraph shall be guilty of a Class A misdemeanor for each offense and the disclosure of information on each policyholder shall constitute a separate offense.

- (b) Except for local governments that have been certified by the Internal Revenue Service or its agent as being in compliance with IRS safeguard requirements and authorized to receive federal tax information, any proprietary information provided to a local government for the purposes of compliance with subsection (3) of this section and all copies or other records related to such information shall be destroyed in an irreversible, secure, and confidential manner in accordance with KRS 171.410 to 171.740 and the administrative regulations promulgated or approved thereunder. A local government failing to destroy proprietary information in accordance with this paragraph shall be subject to a civil penalty payable to the insurance company of five hundred dollars (\$500) for each offense, and the disclosure of information on each policyholder shall constitute a separate offense. An insurance company may commence a civil action in a court of competent jurisdiction for payment of the civil penalty. The total civil penalty shall not exceed ten thousand dollars (\$10,000) per incident.
 - (c) This subsection shall not preclude the disclosure of information to the Department of Insurance or to the legal representative of the local government for purposes of administrative hearings or legal appeals therefrom, nor shall it prohibit the local government from verifying the accuracy of the information with an individual policyholder to whom the information pertains.
- (10) The filing of amended returns, requests for refunds or credits, assessments, and all applications and notification by any party to the Department of Insurance for review under this section, shall be sent to the designated party or parties by certified mail, return receipt requested.

➔Section 2. KRS 91A.0802 is amended to read as follows:

As used in this chapter:

- (1) ***"LGPT" means the local government premiums tax authorized in KRS 91A.080.***
- (2) "Local government" means a city, county, charter county, consolidated local government, urban-county government, or unified local government;
- (3)~~(2)~~ "Risk location system or program" means any electronic software, hardware, or other technology verified by the Kentucky Department of Insurance under KRS 91A.0806 used for locating risks that are subject to taxes or fees under KRS 91A.080; and
- (4)~~(3)~~ "Tax period" means a twelve (12) month period ending on December 31 of each year.

Signed by Governor April 26, 2018.

CHAPTER 183

(HB 427)

AN ACT relating to nurses.

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

➔Section 1. KRS 314.011 is amended to read as follows:

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

- (1) "Board" means Kentucky Board of Nursing;
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;
- (3) "Nurse" means a person who is licensed or holds the privilege to practice under the provisions of this chapter as a registered nurse or as a licensed practical nurse;
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

- (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
 - (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;
- (5) "Registered nurse" means one who is licensed or holds the privilege under the provisions of this chapter to engage in registered nursing practice;
- (6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
- (a) The care, counsel, and health teaching of the ill, injured, or infirm;
 - (b) The maintenance of health or prevention of illness of others;
 - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced practice registered nurse and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Scope and Standards of Practice or with standards of practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:
 - 1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
 - 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 - 3. Intervening when emergency care is required as a result of drug therapy;
 - 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 - 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 - 6. Instructing an individual regarding medications;
 - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and
 - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;
- (7) "Advanced practice registered nurse" or "APRN" means a certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or clinical nurse specialist, who is licensed to engage in advance practice registered nursing pursuant to KRS 314.042 and certified in at least one (1) population focus;
- (8) "Advanced practice registered nursing" means the performance of additional acts by registered nurses who have gained advanced clinical knowledge and skills through an accredited education program that prepares the registered nurse for one (1) of the four (4) APRN roles; who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced practice registered nursing as a certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or clinical nurse specialist; and who certified in at least one (1) population focus. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced practice registered nurses who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905 and to issue prescriptions for but not to dispense Schedules II through V controlled substances described in or as classified pursuant to KRS 218A.020, 218A.060, 218A.080, 218A.100, and 218A.120 under the conditions set forth in KRS 314.042 and regulations promulgated by the Kentucky Board of Nursing on or before August 15, 2006.
- (a) 1. Prescriptions issued by advanced practice registered nurses for Schedule II controlled substances classified under KRS 218A.060, except hydrocodone combination products as defined in KRS 218A.010, shall be limited to a seventy-two (72) hour supply without any refill.

2. Prescriptions issued by advanced practice registered nurses for hydrocodone combination products as defined in KRS 218A.010 shall be limited to a thirty (30) day supply without any refill.
3. Prescriptions issued under this subsection for psychostimulants may be written for a thirty (30) day supply only by an advanced practice registered nurse certified in psychiatric-mental health nursing who is providing services in a health facility as defined in KRS Chapter 216B or in a regional services program for mental health or individuals with an intellectual disability as defined in KRS Chapter 210.
- (b) Prescriptions issued by advanced practice registered nurses for Schedule III controlled substances classified under KRS 218A.080 shall be limited to a thirty (30) day supply without any refill. Prescriptions issued by advanced practice registered nurses for Schedules IV and V controlled substances classified under KRS 218A.100 and 218A.120 shall be limited to the original prescription and refills not to exceed a six (6) month supply.
- ~~[(c) Limitations for specific controlled substances which are identified as having the greatest potential for abuse or diversion, based on the best available scientific and law enforcement evidence, shall be established in an administrative regulation promulgated by the Kentucky Board of Nursing. The regulation shall be based on recommendations from the Controlled Substances Formulary Development Committee, which is hereby created. The committee shall be composed of two (2) advanced practice registered nurses appointed by the Kentucky Board of Nursing, one (1) of whom shall be designated as a committee co chair; two (2) physicians appointed by the Kentucky Board of Medical Licensure, one (1) of whom shall be designated as a committee co chair; and one (1) pharmacist appointed by the Kentucky Board of Pharmacy. The initial regulation shall be promulgated on or before August 15, 2006, and shall be reviewed at least annually thereafter by the committee.]~~

Nothing in this chapter shall be construed as requiring an advanced practice registered nurse designated by the board as a certified registered nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

- (9) "Licensed practical nurse" means one who is licensed or holds the privilege under the provisions of this chapter to engage in licensed practical nursing practice;
- (10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
 - (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, advanced practice registered nurse, physician assistant, licensed physician, or dentist;
 - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;
 - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced practice registered nurse and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
 - (d) Teaching, supervising, and delegating except as limited by the board; and
 - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
- (11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;
- (12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;
- (13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;

- (14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee pursuant to KRS 216B.400(4);
- (15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;
- (16) "Credential" means a current license, registration, certificate, or other similar authorization that is issued by the board;
- (17) "Dispense" means:
 - (a) To receive and distribute ~~nonscheduled~~~~noncontrolled~~ legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or
 - (b) To distribute ~~nonscheduled~~~~noncontrolled~~ legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;
- (18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;
- (19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician;
- (20) "Population focus" means the section of the population within which the advanced practice registered nurse has targeted to practice. The categories of population foci are:
 - (a) Family and individual across the lifespan;
 - (b) Adult gerontology;
 - (c) Neonatal;
 - (d) Pediatrics;
 - (e) Women's health and gender-related health; and
 - (f) Psychiatric mental health; and
- (21) "Conviction" means but is not limited to:
 - (a) An unvacated adjudication of guilt;
 - (b) Pleading no contest or nolo contendere or entering an Alford plea; or
 - (c) Entering a guilty plea pursuant to a pretrial diversion order;

Regardless of whether the penalty is rebated, suspended, or probated.

➔Section 2. KRS 314.031 is amended to read as follows:

- (1) It shall be unlawful for any person to call or hold herself or himself out as or use the title of nurse or to practice or offer to practice as a nurse unless licensed or privileged under the provisions of this chapter.
- (2) It shall be unlawful for any person to operate or to offer to operate or to represent or advertise the operation of a school of nursing unless the school of nursing has been approved under the provisions of this chapter.
- (3) It shall be unlawful for any person knowingly to employ a nurse unless the nurse is licensed or privileged under the provisions of this chapter.
- (4) It shall be unlawful for any nurse, employer of nurses, or any person having knowledge of facts to refrain from reporting to the board a nurse who *is suspected of having violated any provision of subsection (1) of Section 7 of this Act*.

- (a) ~~Has been convicted of any felony or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or of the United States; or~~
- (b) ~~Is suspected of fraud or deceit in procuring or attempting to procure a license, credential, or privilege to practice nursing; or~~
- (c) ~~Is suspected of negligently or willfully acting in a manner inconsistent with the practice of nursing; or~~
- (d) ~~Is suspected of being unfit or incompetent to practice nursing by reason of negligence or other causes including, but not limited to, being unable to practice nursing with reasonable skill or safety; or~~
- (e) ~~Is suspected of violating any provisions of this chapter; or~~
- (f) ~~Has a license, privilege, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license, privilege, or credential to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth; or~~
- (g) ~~Is practicing nursing without a current active license, privilege, or valid temporary work permit issued by the board; or~~
- (h) ~~Is suspected of misusing or misappropriating any drugs placed in the custody of the nurse for administration, or for use of others;~~
- (i) ~~Is suspected of falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records;~~
- (j) ~~Is suspected of abusing controlled substances, prescription medications, illegal substances, or alcohol; or~~
- (k) ~~Is suspected of violating the confidentiality of information or knowledge concerning any patient, except as authorized or required by law].~~

➔Section 3. KRS 314.035 is amended to read as follows:

- (1) It shall be unlawful for any person, other than a nurse, a physician assistant, or a physician, to provide dialysis care in a licensed renal dialysis facility unless that person holds a current active credential from the board to practice as a dialysis technician.
- (2) It shall be unlawful for any person to practice as a dialysis technician who is listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.
- (3) ***It shall be unlawful for any dialysis technician, employer of dialysis technicians, or any person having knowledge of the facts to refrain from reporting to the board a dialysis technician who is suspected of having violated any provision of this chapter or any administrative regulation promulgated by the board.***

➔Section 4. KRS 314.042 is amended to read as follows:

- (1) An applicant for licensure to practice as an advanced practice registered nurse shall file with the board a written application for licensure and submit evidence, verified by oath, that the applicant:
 - (a) Has completed an ***education program that prepares the registered nurse for one (1) of four (4) APRN roles that has been accredited by a national nursing accrediting body recognized by the United States Department of Education***~~[approved organized postbasic program of study and clinical experience];~~
 - (b) Is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced practice registered nursing;
 - (c) ~~[and]~~ Is able to understandably speak and write the English language and to read the English language with comprehension; ***and***
 - (d) ***Has passed the jurisprudence examination approved by the board as provided in subsection (12) of this section.***
- (2) The board may issue a license to practice advanced practice registered nursing to an applicant who holds a current active registered nurse license issued by the board or holds the privilege to practice as a registered nurse in this state and meets the qualifications of subsection (1) of this section. An advanced practice registered nurse shall be:

- (a) Designated by the board as a certified registered nurse anesthetist, certified nurse midwife, certified nurse practitioner, or clinical nurse specialist; and
 - (b) Certified in at least one (1) population focus.
- (3) The applicant for licensure or renewal thereof to practice as an advanced practice registered nurse shall pay a fee to the board as set forth in regulation by the board.
- (4) An advanced practice registered nurse shall maintain a current active registered nurse license issued by the board or hold the privilege to practice as a registered nurse in this state and maintain current certification by the appropriate national organization or agency recognized by the board.
- (5) Any person who holds a license to practice as an advanced practice registered nurse in this state shall have the right to use the title "advanced practice registered nurse" and the abbreviation "APRN." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced practice registered nurse. No person shall practice as an advanced practice registered nurse unless licensed under this section.
- (6) Any person heretofore licensed as an advanced practice registered nurse under the provisions of this chapter who has allowed the license to lapse may be reinstated on payment of the current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.
- (7) The board may authorize a person to practice as an advanced practice registered nurse temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "APRN Applicant" or "APRN App."
- (8)
 - (a) Except as authorized by KRS 314.196 and subsection (9) of this section, before an advanced practice registered nurse engages in the prescribing or dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs" (CAPA-NS) with a physician licensed in Kentucky that defines the scope of the prescriptive authority for nonscheduled legend drugs.
 - (b) The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-NS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-NS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-NS exists and furnish the collaborating physician's name.
 - (c) The CAPA-NS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.
 - (d) The CAPA-NS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of nonscheduled legend drugs by the advanced practice registered nurse.
 - (e) The advanced practice registered nurse who is prescribing nonscheduled legend drugs and the collaborating physician shall be qualified in the same or a similar specialty.
 - (f) The CAPA-NS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.
 - (g) The CAPA-NS shall be reviewed and signed by both the advanced practice registered nurse and the collaborating physician and may be rescinded by either party upon written notice via registered mail to the other party, the Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.
- (9)
 - (a) Before an advanced practice registered nurse may discontinue or be exempt from a CAPA-NS required under subsection (8) of this section, the advanced practice registered nurse shall have completed four (4) years of prescribing as a nurse practitioner, clinical nurse specialist, nurse midwife, or as a nurse anesthetist. For nurse practitioners and clinical nurse specialists, the four (4) years of prescribing shall be in a population focus *as defined in Section 1 of this Act* ~~[of adult gerontology, pediatrics, neonatal, family, women's health, acute care, or psychiatric mental health]~~.

- (b) After four (4) years of prescribing with a CAPA-NS in collaboration with a physician:
 - 1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;
 - 2. The advanced practice registered nurse will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and
 - 3. If the advanced practice registered nurse's license is not in good standing, the CAPA-NS requirement shall not be removed until the license is restored to good standing.
- (c) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement is exempt from the CAPA-NS requirement if the advanced practice registered nurse:
 - 1. Has met the prescribing requirements in a state that grants independent prescribing to advanced practice registered nurses; and
 - 2. Has been prescribing for at least four (4) years.
- (d) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement who had a collaborative prescribing agreement with a physician in another state for at least four (4) years is exempt from the CAPA-NS requirement.
- (e) ~~{After July 15, 2014:}~~
 - 1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;
 - 2. An advanced practice registered nurse who has maintained a CAPA-NS for four (4) years or more will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and
 - 3. An advanced practice registered nurse who has maintained a CAPA-NS for less than four (4) years shall be required to continue to maintain a CAPA-NS until the four (4) year period is completed, after which the CAPA-NS will no longer be required.
- (10) (a) Before an advanced practice registered nurse engages in the prescribing of Schedules II through V controlled substances as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" (CAPA-CS) with a physician licensed in Kentucky that defines the scope of the prescriptive authority for controlled substances.
- (b) The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-CS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-CS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish the collaborating physician's name.
- (c) The CAPA-CS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.
- (d) The CAPA-CS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of controlled substances by the advanced practice registered nurse.
- (e) The advanced practice registered nurse who is prescribing controlled substances and the collaborating physician shall be qualified in the same or a similar specialty.

- (f) The CAPA-CS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.
 - (g) Before engaging in the prescribing of controlled substances, the advanced practice registered nurse shall:
 - 1. Have been licensed to practice as an advanced practice registered nurse for one (1) year with the Kentucky Board of Nursing; or
 - 2. Be nationally certified as an advanced practice registered nurse and be registered, certified, or licensed in good standing as an advanced practice registered nurse in another state for one (1) year prior to applying for licensure by endorsement in Kentucky.
 - (h) Prior to prescribing controlled substances, the advanced practice registered nurse shall obtain a Controlled Substance Registration Certificate through the U.S. Drug Enforcement Agency.
 - (i) The CAPA-CS shall be reviewed and signed by both the advanced practice registered nurse and the collaborating physician and may be rescinded by either party upon written notice ~~[via registered mail to the other party and]~~ the Kentucky Board of Nursing~~], and the Kentucky Board of Medical Licensure].~~
 - (j) The CAPA-CS shall state the limits on controlled substances which may be prescribed by the advanced practice registered nurse, as agreed to by the advanced practice registered nurse and the collaborating physician. The limits so imposed may be more stringent than either the schedule limits on controlled substances established in KRS 314.011(8) or the limits imposed in regulations promulgated by the Kentucky Board of Nursing thereunder.
- (11) Nothing in this chapter shall be construed as requiring an advanced practice registered nurse designated by the board as a certified **registered** nurse anesthetist to enter into a collaborative agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.
- (12) ***The jurisprudence examination shall be prescribed by the board and be conducted on the licensing requirements under this chapter and board regulations and requirements applicable to advanced practice registered nursing in this Commonwealth. The board shall promulgate administrative regulations in accordance with KRS Chapter 13A, establishing the provisions to meet this requirement.***

➔Section 5. KRS 314.085 is amended to read as follows:

- (1) If the board has reasonable cause to believe that any licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; holder of the privilege to practice as a nurse; credential holder; or holder of a temporary work permit is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a mental health, neuropsychological, psychosocial, psychosexual, substance use disorder, or physical evaluation by a licensed or certified practitioner designated by the board. Upon the failure of the person to submit ***the evaluation within thirty (30) days***~~[to a mental health, chemical dependency or physical evaluation]~~, unless due to circumstances beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny the application until the person submits to the required evaluation.
- (2) Every licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; holder of the privilege to practice as a nurse; credential holder; or holder of a temporary work permit shall be deemed to have given consent to submit to a mental health, neuropsychological, psychosocial, psychosexual, substance use disorder, or physical evaluation when so directed in writing by the board. The direction to submit to an evaluation shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining practitioner's testimony or examination reports on the ground of privileged communication.
- (3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; holder of the privilege to practice as a nurse; credential holder; or holder of a temporary work permit shall bear the cost of any mental health, neuropsychological, psychosocial, psychosexual, substance use disorder, or physical evaluation ordered by the board.

➔Section 6. KRS 314.089 is amended to read as follows:

- (1) The board's president or the president's designee may determine that immediate temporary suspension of a license or privilege against which disciplinary action or an investigation is pending is necessary in order to

stop, prevent, or avoid immediate danger to the public health, safety, or welfare~~[protect the public]~~. When it appears that this action may be necessary, the executive director or the executive director's designee shall issue an emergency order suspending the nurse's license or privilege. Upon appeal of an emergency order, an emergency hearing shall be conducted in accordance with KRS 13B.125.

- (2) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he has previously sat on a hearing panel considering temporary suspension of the same license or privilege.
- (3) The board shall expedite disciplinary actions in which a license or privilege has been temporarily suspended.
- (4) The order of immediate temporary suspension shall remain in effect until either reconsidered or superseded by final disciplinary action by the board.

➔Section 7. KRS 314.091 is amended to read as follows:

- (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter or the privilege to practice as a nurse recognized by the board in accordance with this chapter, or to otherwise discipline a licensee, credential holder, privilege holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:
 - (a) Is guilty of fraud or deceit in procuring or attempting to procure a license, credential, or privilege to practice nursing;
 - (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States, if in accordance with KRS Chapter 335B. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;
 - (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;
 - (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
 - (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
 - (f) ~~Abuses use of~~ controlled substances, prescription medications, illegal substances, or alcohol;
 - (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;
 - (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;
 - (i) Has a license, privilege, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or privilege to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth, including action by another jurisdiction for failure to repay a student loan;
 - (j) Has violated any of the provisions of this chapter;
 - (k) Has violated any lawful order or directive previously entered by the board;
 - (l) Has violated any administrative regulation promulgated by the board;
 - (m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property;~~for~~
 - (n) Has violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law;
 - (o) ***Used or possessed a Schedule I controlled substance; or***
 - (p) ***Has used or been impaired as a consequence of the use of alcohol or drugs while practicing as a nurse.***

- (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license, privilege, or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.
- (3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
- (4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.
- (5) A final order of the board shall be by majority vote thereof.
- (6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.
- (7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license, privilege, or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.
- (8) ***The board may, by administrative regulation, provide for the recovery of the costs of an administrative hearing.***

➔Section 8. KRS 314.101 is amended to read as follows:

- (1) This chapter does not prohibit the following:
 - (a) The practice of any currently licensed nurse of another state practicing in this state during an emergency occurring in this state or any other state declared by the President of the United States or the Governor of Kentucky. The duration and conditions of the practice shall be determined by the board;
 - (b) The practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing;
 - (c) The practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties;
 - (d) The practice of any currently licensed nurse of another state ***that is not a member of the Nurse Licensure Compact set forth in KRS 314.475***, who is in this state on a nonroutine basis ***not to exceed seven (7) days;***~~to:~~
 1. ~~Provide care to a patient being transported into, out of, or through this state;~~
 2. ~~Provide nursing consulting services; or~~
 3. ~~Present a continuing nursing education program;~~ or
 - (e) Notwithstanding the provisions of paragraph (a) of this subsection, the practice of volunteer health practitioners under KRS 39A.350 to 39A.366.
- (2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.
- (3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.
- (4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

- (5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

➔Section 9. KRS 314.181 is amended to read as follows:

A registered nurse who is employed by a health facility as defined in KRS 216B.015 may determine whether or not a patient is dead in accordance with the requirements of KRS 446.400. The nurse shall notify the patient's attending physician or other appropriate practitioner of the death in accordance with the facility's policy. The registered nurse is authorized to sign the provisional report of death as furnished by the state registrar of vital statistics.

- ~~{(1) A registered nurse who is employed by an ambulance service shall complete training in determination of death and preservation of evidence as required by the board through the promulgation of administrative regulations in accordance with KRS Chapter 13A.~~
- ~~(2) A registered nurse who is employed by an ambulance service shall determine whether or not a patient served by the ambulance service is dead. The registered nurse shall utilize the protocol specified by the board by administrative regulations. The registered nurse shall, when responding to a patient, first attempt resuscitation, unless the protocol indicates that the patient is not capable of being resuscitated.~~
- ~~(3) If it is determined that death has occurred in accordance with the procedures of KRS 446.400(1) concerning patients whose circulation and respiration are not being artificially maintained, the registered nurse who is employed by an ambulance service may make the actual determination and pronouncement of death.~~
- ~~(4) When the determination and pronouncement of death of a patient whose circulation and respiration are not being artificially maintained, as required under KRS 446.400(1), occurs in a hospital or nursing facility, that declaration may be made by a registered nurse, in addition to any other person permitted by law to determine and pronounce death. The nurse shall notify the patient's attending physician of the death in accordance with the hospital's or facility's policy.~~
- ~~(5) In the event that a registered nurse who is employed by an ambulance service determines that a person is dead, the registered nurse shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.~~
- ~~(6) The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person, prior to the arrival of the registered nurse who is employed by an ambulance service, by any person shall not be considered as artificial maintenance of respiration and circulation for the purposes of this section and KRS 446.400. The administration of advanced cardiac life support procedures by any person, other than a paramedic rendering care pursuant to KRS 311A.180, prior to the arrival of the registered nurse shall preclude the determination of death by the registered nurse, and the provisions of KRS 446.400 shall apply. Nothing in this section shall preclude the supervising physician from directing the registered nurse who is employed by an ambulance service to cease resuscitative efforts under approved agency medical protocols.~~
- ~~(7) The resuscitative efforts of a nurse under protocols authorized by this section shall not invoke the provisions of KRS 446.400.]~~

➔Section 10. KRS 314.111 is amended to read as follows:

- (1) An institution desiring to conduct a school of nursing shall apply to the board and submit evidence that it is prepared to carry out the minimum approved basic curriculum in nursing and that it is prepared to fulfill other requirements of standards which are established by KRS 314.011 to 314.161 and KRS 314.991 and the administrative regulations promulgated by the board. No person shall operate a nursing education program or school of nursing without complying with the provisions of this section.
- (2) A survey of the institution and its proposed education program shall be made by the executive director or an authorized employee of the board who shall submit a written report of the survey to the board. If in the opinion of the board the requirements for an approved nursing education program or school of nursing are met it shall approve the school.
- (3) The board shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, set standards for the establishment and outcomes of nursing education programs that prepare advanced practice registered nurses, including clinical learning experiences, and shall approve such programs that meet the standards.
- (4) If the board determines that any approved school of nursing is not maintaining the standards required by the statutes and the administrative regulations of the board *or is not complying with the requirements of the*

administrative regulations of the board, notice thereof in writing specifying their deficiencies *or compliance issues* shall be ~~immediately~~ given to the school. A school which fails to correct these conditions to the satisfaction of the board *or fails to comply with the requirements of the administrative regulation may be fined up to five hundred dollars (\$500) per day for each day that it fails to correct the deficiencies or fails to comply with the requirements of the administrative regulations. A school may:*

- (a) *Request an administrative hearing in accordance with KRS Chapter 13B to contest any fine; and~~shall~~*
- (b) Be subject to an administrative hearing *in accordance with KRS Chapter 13B* to determine whether the school shall be closed.

The board shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement this subsection~~[The hearing shall be conducted in accordance with KRS Chapter 13B].~~

➔Section 11. KRS 314.121 is amended to read as follows:

- (1) The Governor shall appoint a Board of Nursing consisting of sixteen (16) members:
 - (a) Nine (9) members shall be registered nurses licensed to practice in the Commonwealth, with the Governor ensuring that the appointees represent different specialties from a broad cross-section of the nursing profession after soliciting and receiving nominations from recognized specialty state component societies;
 - (b) Three (3) members shall be practical nurses licensed to practice in the Commonwealth;
 - (c) One (1) member shall be a nurse service administrator who is a registered nurse licensed to practice in the Commonwealth;
 - (d) One (1) member shall be engaged in practical nurse education who is a registered nurse licensed to practice in the Commonwealth; and
 - (e) Two (2) members shall be citizens at large, who are not associated with or financially interested in the practice or business regulated.
- (2) Each appointment shall be for a term of four (4) years expiring on June 30 of the fourth year. The cycle for appointments and expiration of terms shall be as follows:
 - (a) The first year of the four (4) year cycle, the terms for three (3) registered nurses and one (1) licensed practical nurse shall expire;
 - (b) The second year of the four (4) year cycle, the terms for three (3) registered nurses and one (1) citizen at large shall expire;
 - (c) The third year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and the one (1) member engaged in practical nurse education who is a registered nurse shall expire; and
 - (d) The fourth year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and one (1) citizen at large shall expire.
- (3)
 - (a) By March 1, the Kentucky Nurses Association shall submit to the Governor a list of members qualified for appointment as R.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments necessary by July 1.
 - (b) By March 1, Kentucky Licensed Practical Nurses Organization Incorporated shall submit to the Governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments as necessary by July 1.
 - (c) By March 1 of the year in which the nurse service administrator's term shall expire, the Kentucky Organization of Nurse **Leaders**~~[Executives]~~, an affiliate of the Kentucky Hospital Association, shall submit to the Governor two (2) names of qualified individuals for appointment as the nurse service administrator from which list the Governor shall make an appointment as necessary by July 1.
 - (d) By March 1, **LeadingAge Kentucky**~~[the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc.]~~ shall submit to the Governor two (2) names of qualified individuals for appointments as its R.N. representative to the board, from which the Governor shall make an appointment by July 1.

- (e) By March 1 of the year in which the Kentucky Association of Health Care Facilities representative's term shall expire, the Kentucky Association of Health Care Facilities shall submit to the Governor two (2) names of qualified individuals for appointment as its R.N. representative to the board, from which list the Governor shall make an appointment as necessary by July 1.
 - (f) Initially, the Governor shall appoint one (1) member to serve as the registered nurse who is engaged in practical nurse education to serve the term remaining according to the cycle specified in subsection (2) of this section. By August 1, 1996, Kentucky Licensed Practical Nurses Organization Incorporated shall submit to the Governor two (2) names of qualified individuals for the appointment, from which list the Governor shall make the appointment by September 1, 1996. Thereafter, by March 1 of the year in which the practical nurse educator's term expires, Kentucky Licensed Practical Nurses Organization Incorporated shall submit to the Governor two (2) names of qualified individuals for the appointment, from which list the Governor shall make the appointment by July 1.
 - (g) The Governor shall appoint two (2) members who shall be citizens at large, who are not associated with or financially interested in the practice or business regulated. The Governor shall make the appointments by July 1 of the year in which the citizen members' terms expire.
- (4) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.
 - (5) The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.
 - (6) Each R.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of nursing, and a registered nurse in this state. All shall have had at least five (5) years of experience in nursing, three (3) of which shall immediately precede such appointment. Five (5) members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; one (1) shall be engaged in advanced practice registered nursing; and one (1) shall be in nursing administration.
 - (7) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state, have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment, and be currently engaged in nursing practice.

➔Section 12. KRS 311A.185 is amended to read as follows:

- (1) When it appears that a person whom a paramedic who has successfully completed training in determination of death has been called to attend is dead, the paramedic shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead after resuscitation of the patient is attempted by the paramedic or an emergency medical technician who has responded with or after the paramedic, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the paramedic may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead. If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the paramedic may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.
- (2) In the event that a paramedic determines that a person is dead, the paramedic shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.
- (3) Any paramedic course taught after July 15, 1998, shall include a course of instruction on the determination of death and preservation of evidence as required by the board by administrative regulation.
- (4) Any paramedic from another jurisdiction desiring to become a paramedic in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection (3) of this section, and licensure as a paramedic shall be denied if the required evidence is not shown.
- (5) The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person prior to the arrival of the paramedic by any person, for the purposes of this section and KRS 446.400, shall not be considered as artificial maintenance of respiration and circulation. The administration of advanced cardiac life support procedures by any person, other than a registered nurse ~~rendering care pursuant to KRS 314.184~~, prior to the arrival of the paramedic shall preclude the determination of death by the paramedic, and the provisions of KRS 446.400 shall apply. However, nothing in this section shall preclude the

supervising physician from directing the paramedic to cease resuscitative efforts under approved agency medical protocols.

- (6) The resuscitative efforts of a paramedic under the protocols authorized by this section shall not invoke the provisions of KRS 446.400.

➔Section 13. The following KRS sections are repealed:

314.046 Registered nurse may sign the provisional report of death, when.

314.105 Declaratory ruling by board on applicability of law to a particular case.

Signed by Governor April 26, 2018.

CHAPTER 184

(HB 429)

AN ACT relating to reorganization.

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

➔Section 1. KRS 196.026 is amended to read as follows:

The Department of Corrections shall consist of the following organizational units:

- (1) Personnel Division;
- (2) Office of Adult Institutions, which shall have the following divisions:
 - (a) Division of Operations and Program Services;
 - (b) Division of Medical Services;
 - (c) Division of Mental Health Services;
 - (d) Division of Substance Abuse Programming;
 - (e) Division of Correctional Industries;
 - (f) Division of Kentucky State Reformatory;
 - (g) Division of Luther Luckett Correctional Complex;
 - (h) Division of Roederer Correctional Complex;
 - (i) Division of Blackburn Correctional Complex;
 - (j) Division of Kentucky Correctional Institution for Women;
 - (k) Division of Northpoint Training Center Division;
 - (l) Division of Eastern Kentucky Correctional Complex;
 - (m) Division of Bell County Forestry Camp;
 - (n) Division of Kentucky State Penitentiary;
 - (o) Division of Western Kentucky Correctional Complex;
 - (p) Division of Green River Correctional Complex;~~and~~
 - (q) Division of Little Sandy Correctional Complex; *and*
 - (r) *Division of Education.*

Each division specified in paragraphs (f) to (q) of this subsection shall be headed by a warden pursuant to KRS 196.160;

- (3) Office of Community Services and Facilities, which shall have the following divisions:

- (a) Division of Probation and Parole; and
- (b) Division of Local Facilities; and
- (4) Office of Support Services, which shall have the following divisions:
 - (a) Division of Administrative Services;
 - (b) Division of Corrections Training;
 - (c) Division of Population Management; and
 - (d) Division of Parole and Victim Services.

➔Section 2. The General Assembly hereby confirms Executive Order 2017-268, dated May 1, 2017, which reorganizes the Justice and Public Safety Cabinet Department of Corrections, to the extent that it is not otherwise confirmed or superseded by this Act.

Signed by Governor April 26, 2018.

CHAPTER 185

(HB 11)

AN ACT relating to power of attorney.

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

➔SECTION 1. KRS CHAPTER 457 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This chapter may be cited as the Uniform Power of Attorney Act (2006).

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

- (1) *"Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, coagent, successor agent, and a person to which an agent's authority is delegated;*
- (2) *"Durable," with respect to a power of attorney, means not terminated by the principal's incapacity;*
- (3) *"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;*
- (4) *"Good faith" means honesty in fact;*
- (5) *"Incapacity" means inability of an individual to manage property or business affairs because the individual:*
 - (a) *Has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or*
 - (b) *Is:*
 - 1. *Missing;*
 - 2. *Detained, including incarcerated in a penal system; or*
 - 3. *Outside the United States and unable to return;*
- (6) *"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;*
- (7) *"Power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used;*

- (8) *"Principal" means an individual who grants authority to an agent in a power of attorney;*
- (9) *"Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein;*
- (10) *"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;*
- (11) *"Sign" means, with present intent to authenticate or adopt a record:*
 - (a) *To execute or adopt a tangible symbol; or*
 - (b) *To attach to or logically associate with the record an electronic sound, symbol, or process;*
- (12) *"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and*
- (13) *"Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

This chapter applies to all powers of attorney except:

- (1) *A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;*
- (2) *A power to make health-care decisions including but not limited to health-care decisions outlined in KRS 311.621 to 311.643, unless the power of attorney otherwise provides;*
- (3) *Proxy or other delegation to exercise voting rights or management rights with respect to an entity, unless the power of attorney otherwise provides;*
- (4) *A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose, unless the power of attorney otherwise provides;*
- (5) *A power for reciprocal insurers as detailed in Subtitle 27 of KRS Chapter 304;*
- (6) *A power given by a member of the United States Armed Forces, a person serving as a merchant seaman, or a person outside the United States in connection with war activities as detailed in KRS Chapter 384; and*
- (7) *A power for the temporary delegation of parental rights as detailed in KRS 403.352 and 403.353.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

- (1) *A power of attorney must be signed in the presence of two (2) disinterested witnesses by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney. If signed in the principal's conscious presence by another individual, the reason for this method of signing shall be stated in the power of attorney.*
- (2) *A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

- (1) *A power of attorney executed in this state on or after the effective date of this Act is valid if its execution complies with Section 5 of this Act.*
- (2) *A power of attorney executed in this state before the effective date of this Act is valid if its execution complied with the law of this state as it existed at the time of execution.*
- (3) *A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with:*
 - (a) *The law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to Section 7 of this Act; or*

(b) *The requirements for a military power of attorney pursuant to 10 U.S.C. sec. 1044b, as amended.*

(4) *Except as otherwise provided by statute, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.*

(5) *Except as otherwise provided by statute, a power of attorney that complies with this chapter is valid.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

(1) *In a power of attorney, a principal may nominate a limited conservator, conservator, limited guardian, or guardian of the principal's estate or a limited guardian or guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. As outlined in KRS 387.600, the nomination shall be treated as an indication of the principal's preference as to the person or entity to be appointed as his or her limited conservator, conservator, limited guardian, or guardian, and the court shall give the preference due consideration.*

(2) *If, after a principal executes a power of attorney, a court appoints a limited conservator, conservator, limited guardian, or guardian of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the power of attorney shall terminate unless the court specifically provides that it shall remain in effect.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

(1) *A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.*

(2) *If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one (1) or more persons to determine in a writing or other record that the event or contingency has occurred.*

(3) *If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:*

(a) *A physician, an advanced practice registered nurse, a psychologist licensed or certified under the provisions of KRS Chapter 319, or a person licensed or certified as a social worker or an employee of the Cabinet for Health and Family Services who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c), that the principal is incapacitated within the meaning of subsection (5)(a) of Section 2 of this Act; or*

(b) *An attorney-at-law or a judge that the principal is incapacitated within the meaning of subsection (5)(b) of Section 2 of this Act.*

(4) *A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 to 1179 of the Social Security Act, 42 U.S.C. sec. 1320d, as amended, and applicable regulations, to obtain access to the principal's health-care information and communicate with the principal's health-care provider for the sole purpose of determining whether the principal is incapacitated, unless the power of attorney otherwise provides.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

(1) *A power of attorney terminates when:*

(a) *The principal dies;*

(b) *The principal becomes incapacitated, if the power of attorney is not durable;*

- (c) *A court appoints a limited conservator, conservator, limited guardian, or guardian of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, unless the court specifically provides that the power of attorney shall remain in effect;*
 - (d) *The principal revokes the power of attorney or, if the power of attorney was filed, the principal revokes the power of attorney in accordance with KRS 382.370;*
 - (e) *The power of attorney provides that it terminates;*
 - (f) *For a power of attorney that specifically states a purpose, the purpose of the power of attorney is accomplished; or*
 - (g) *The principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.*
- (2) *An agent's authority terminates when:*
- (a) *The principal revokes the authority;*
 - (b) *The agent dies, becomes incapacitated, or resigns;*
 - (c) *An action is filed for the dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or*
 - (d) *The power of attorney terminates.*
- (3) *Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection (2) of this section, notwithstanding a lapse of time since the execution of the power of attorney.*
- (4) *Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.*
- (5) *Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.*
- (6) *The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

- (1) *If a principal designates two (2) or more persons to act as coagents, each coagent may exercise its authority independently unless the power of attorney otherwise provides.*
- (2) *A principal may designate one (1) or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant authority to designate one (1) or more successor agents to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent:*
- (a) *Has the same authority as that granted to the original agent; and*
 - (b) *May not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.*
- (3) *Except as otherwise provided in the power of attorney and subsection (4) of this section, an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.*
- (4) *An agent that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent of the same principal shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:*
 - (a) *Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;*
 - (b) *Act in good faith; and*
 - (c) *Act only within the scope of authority granted in the power of attorney.*
- (2) *Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:*
 - (a) *Act loyally for the principal's benefit;*
 - (b) *Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;*
 - (c) *Act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;*
 - (d) *Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;*
 - (e) *Cooperate with a person that has authority to make health-care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest; and*
 - (f) *Attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:*
 1. *The value and nature of the principal's property;*
 2. *The principal's foreseeable obligations and need for maintenance;*
 3. *Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and*
 4. *Eligibility for a benefit, a program, or assistance under a statute or regulation.*
- (3) *An agent that acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.*
- (4) *An agent that acts with care, competence, and diligence for the best interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.*
- (5) *If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.*
- (6) *Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.*
- (7) *An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.*
- (8) *Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested*

by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within thirty (30) days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional thirty (30) days.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

- (1) *Relieves the agent of liability for breach of duty committed dishonestly, with an improper motive, or with reckless indifference to the purposes of the power of attorney or the best interest of the principal; or*
- (2) *Was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.*

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

- (1) *The following persons may petition a District Court to construe a power of attorney or review the agent's conduct, and grant appropriate relief:*
 - (a) *The principal or the agent;*
 - (b) *A guardian, conservator, or other fiduciary acting for the principal;*
 - (c) *A person authorized to make health-care decisions for the principal;*
 - (d) *The principal's spouse, parent, or descendant;*
 - (e) *An individual who would qualify as a presumptive heir of the principal;*
 - (f) *A person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;*
 - (g) *A governmental agency having regulatory authority to protect the welfare of the principal;*
 - (h) *The principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and*
 - (i) *A person asked to accept the power of attorney.*
- (2) *Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.*

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

An agent that violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

- (1) *Restore the value of the principal's property to what it would have been had the violation not occurred; and*
- (2) *Reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf.*

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated:

- (1) *To the conservator or guardian, if one has been appointed for the principal, and a coagent or successor agent; or*
- (2) *If there is no person described in subsection (1) of this section, to:*
 - (a) *The principal's caregiver;*
 - (b) *Another person listed in the power of attorney as having sufficient interest in the principal's welfare to receive the resignation; or*
 - (c) *A governmental agency having authority to protect the welfare of the principal.*

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section and Section 20 of this Act, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgements.*
- (2) *A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under Section 5 of this Act that the signature is genuine.*
- (3) *A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid, and still in effect, the agent's authority were genuine, valid, and still in effect, and the agent had not exceeded and had properly exercised the authority.*
- (4) *A person that is asked to accept an acknowledged power of attorney may request, and rely upon, without further investigation:*
 - (a) *An agent's certification under penalty of perjury of any factual matter concerning the principal, agent, or power of attorney;*
 - (b) *An English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and*
 - (c) *An opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.*
- (5) *An English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than seven (7) business days after the power of attorney is presented for acceptance.*
- (6) *For purposes of this section and Section 20 of this Act, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.*

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as otherwise provided in subsection (2) of this section:*
 - (a) *A person shall either accept an acknowledged power of attorney or request a certification, a translation, or an opinion of counsel under subsection (4) of Section 19 of this Act no later than seven (7) business days after presentation of the power of attorney for acceptance;*
 - (b) *If a person requests a certification, a translation, or an opinion of counsel under subsection (4) of Section 19 of this Act, the person shall accept the power of attorney no later than five (5) business days after receipt of the certification, translation, or opinion of counsel; and*
 - (c) *A person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.*
- (2) *A person is not required to accept an acknowledged power of attorney if:*
 - (a) *The person is not otherwise required to engage in a transaction with the principal in the same circumstances;*
 - (b) *Engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law;*
 - (c) *The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;*
 - (d) *A request for a certification, a translation, or an opinion of counsel under subsection (4) of Section 19 of this Act is refused;*
 - (e) *The person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel under subsection (4) of Section 19 of this Act has been requested or provided; or*

- (f) *The person makes, or has actual knowledge that another person has made, a report to the Cabinet for Health and Family Services stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.*
- (3) *A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to:*
 - (a) *A court order mandating acceptance of the power of attorney; and*
 - (b) *Liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.*
- (4) *A person that accepts a power of attorney pursuant to this section shall not be liable for his or her good faith reliance on the agent's representation of the scope of authority granted to the agent by the power of attorney. In addition, the person shall not be responsible to determine or ensure the proper application of funds or property by the agent.*

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this state other than this chapter.

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. secs. 7001 et seq., but does not modify, limit, or supersede sec. 101(c) of that act, 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in sec. 103(b) of that act, 15 U.S.C. Section 7003(b).

➔SECTION 26. A NEW SECTION OF KRS CHAPTER 457 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in this chapter, on the effective date of this Act:

- (1) *This chapter applies to a power of attorney created before, on, or after the effective date of this Act;*
- (2) *This chapter applies to a judicial proceeding concerning a power of attorney commenced on or after the effective date of this Act;*
- (3) *This chapter applies to a judicial proceeding concerning a power of attorney commenced before the effective date of this Act unless the court finds that application of a provision of this chapter would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and*
- (4) *An act done before the effective date of this Act is not affected by this chapter.*

➔Section 27. KRS 367.93103 is amended to read as follows:

- (1) A person who is of sound mind and is at least eighteen (18) years of age may execute a declaration.
- (2) (a) A declaration shall not be included in:
 - 1. ~~{(a)}~~ A will;
 - 2. ~~{(b)}~~ A power of attorney; or
 - 3. ~~{(c)}~~ A similar document.

- (b) *If a declaration is included in any of the documents listed in paragraph (a) of this subsection, it shall not invalidate the document but the declaration contained therein is not enforceable.*
- (3) A declaration shall designate an individual to serve as the designee, or if no designee is designated shall provide instruction concerning funeral services, ceremonies, and the disposition of remains after death.
- (4) A declaration, at a minimum, shall be:
- (a) Voluntary;
 - (b) In writing;
 - (c) Signed by the declarant or by another person in the declarant's presence and at the direction of the declarant;
 - (d) Dated;
 - (e) Signed in the presence of at least two (2) competent witnesses who are at least eighteen (18) years of age at the time they sign the declaration; and
 - (f) Acknowledged before a notary public or other person authorized to administer oaths.
- (5) A declaration is not binding upon a funeral home, a cemetery, or any person engaged in the business of providing funeral services, selling merchandise or grave markers, or providing a service or other property subject to the declaration until the funeral home, cemetery, or person receives full payment for the service, merchandise, or other property.
- (6) A person is not considered to be entitled to any part of the declarant's estate solely by virtue of being designated by the declarant to serve as his or her designee.
- (7) Unless an individual is related to the declarant by birth, marriage, or adoption, a declarant shall not designate an individual to be his or her designee or alternate designee who is:
- (a) A provider of funeral or cemetery services; or
 - (b) Employed by any entity that is responsible for providing funeral or cemetery services or disposing of the declarant's remains.
- (8) The following shall not be a witness to a declaration:
- (a) The person who signed the declaration on behalf of and at the direction of the declarant; or
 - (b) The person identified as the designee.
- ➔Section 28. KRS 372.140 is amended to read as follows:
- (1) *Except as provided in Section 15 of this Act*, any power of attorney to confess judgment or to suffer judgment to pass by default or otherwise, and any release of errors, given before an action is instituted, is void.
- (2) No person shall appear for a defendant under any such power in any court in this state.
- ➔Section 29. KRS 387.530 is amended to read as follows:
- (1) A petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator may be filed by any interested person or by an individual needing guardianship or conservatorship. The petition shall set forth the following:
- (a) The name and address of the respondent;
 - (b) The date of birth of the respondent, if known;
 - (c) The nature and degree of the alleged disability of the respondent;
 - (d) The facts and reasons supporting the need for guardianship or conservatorship;
 - (e) A description and approximation of the value of the respondent's financial resources, including government benefits, insurance entitlements, and anticipated yearly income, if known;
 - (f) The names and addresses of the respondent's next of kin, if known;
 - (g) The name and address of the individual or facility, if any, having custody of the respondent;
 - (h) The name, address and interest of the petitioner;

- (i) The name and address of the petitioner's attorney, if any; and
 - (j) The name and address of any person or entity appointed by the respondent as respondent's attorney in fact under a durable power of attorney, ~~as defined in KRS 386.093(1),~~ or as respondent's surrogate to make health care decisions under an advance directive.
- (2) The petition shall be accompanied by a verified application of the person or entity desiring appointment as limited guardian, guardian, limited conservator, or conservator. The application shall state the name, address, and qualifications of the applicant and his relationship to the respondent. If it is proposed that a standby limited guardian, guardian, limited conservator, or conservator be designated, the petition shall also be accompanied by the application of the person or entity desiring to be so designated. Additional petitions may be filed prior to the date of the hearing by other persons desiring appointment.

➔Section 30. The following KRS section is repealed:

386.093 Effect of disability, incapacity, or death on power of attorney, durable or otherwise.

Signed by Governor April 26, 2018.

CHAPTER 186

(SB 78)

AN ACT relating to electricians.

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

➔Section 1. KRS 227A.060 is amended to read as follows:

- (1) The department shall issue a license as an "electrical contractor" to an applicant who meets the following requirements:
 - (a) Has paid to the department the application fee not to exceed two hundred dollars (\$200) and the appropriate examination fee, which shall not exceed the actual cost of examination;
 - (b) Has achieved a passing score, as set by the department, on all portions of the examination required by the department. The department shall promulgate administrative regulations to specify who shall take the examination if the applicant is a business entity; and
 - (c) Has submitted proof that he or she has complied with workers' compensation and unemployment insurance laws and administrative regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars (\$500,000).
- (2) The department shall issue a license as a "master electrician" to an applicant who meets the following requirements:
 - (a) Has paid to the department the application fee not to exceed one hundred dollars (\$100) and the appropriate examination fee not to exceed the actual cost of the examination;
 - (b) Has completed:
 - 1. a. Six (6) years of verifiable experience in the electrical trade since his or her sixteenth birthday; and
 - b. A training course in electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; or
 - 2. a. Five (5) years of verifiable experience in the electrical trade since his or her sixteenth birthday; and
 - b. An associate's degree or diploma program in electrical technology at a college within the Kentucky Community and Technical College System after 1998; and
 - (c) Has achieved a passing score, as set by the department, on all portions of the examination required by the department.

- (3) The department shall issue a license as an "electrician" to an applicant who meets the following requirements:
- (a) Has paid to the department the application fee not to exceed fifty dollars (\$50) and the appropriate examination fee not to exceed the actual cost of the examination ***administered by the department***;
 - (b) Has completed:
 - 1. ~~1. a. Three (3) years of verifiable experience in the electrical trade since his or her sixteenth birthday; and~~ ***Two (2) years of verifiable experience in the electrical trade since his or her sixteenth birthday; and***
 - 2. ~~a. b. A training course in electrical work, acceptable to the department; or~~
 - b. Two (2) years of a minimum four (4) year training course in electrical work, acceptable to the department, and shall complete the remaining years of that training course within four (4) years of obtaining the electrician license, or the electrician license shall be revoked; or***
 - ~~c. An additional two (2) years of verifiable experience in the electrical trade; or~~
 - 2. ~~a. Three (3) years of verifiable experience in the electrical trade since his or her sixteenth birthday; and~~
 - ~~b. An associate's degree or diploma program in electrical technology at a college within the Kentucky Community and Technical College System after 1998; and~~
 - (c) Has achieved a passing score, as set by the department, on all portions of the examination required ***and administered*** by the department.
- (4) (a) ***The department shall issue a nonrenewable provisional license as an "electrician" to an applicant who:***
- 1. Is a Kentucky resident; and***
 - 2. Has completed at least six (6) years of verifiable experience and has worked two thousand eighty (2,080) hours a year for those six (6) years in the electrical trade since the applicant's sixteenth birthday.***
- (b) ***A nonrenewable provisional license issued to an applicant under paragraph (a) of this subsection shall be valid for a period not to exceed one (1) year from the date of issuance.***
- (c) ***The department shall issue a license as an electrician to a provisional license holder who has, prior to the expiration of the one (1) year term of the provisional license:***
- 1. Achieved a passing score on all portions of the examination required and administered by the department under subsection (3)(c) of this section;***
 - 2. Paid to the department the application fee not to exceed fifty dollars (\$50); and***
 - 3. Paid to the department the examination fee not to exceed the actual cost of the examination.***
- (d) ***If a provisional license holder does not achieve a passing score on all portions of the examination required and administered under subsection (3)(c) of this section prior to the expiration of the one (1) year term of the provisional license, the provisional license shall expire and the provisional license holder shall be ineligible for any additional provisional licenses. Nothing in this paragraph shall prevent a former provisional license holder from acquiring an electrician's license under subsection (3) of this section.***

➔Section 2. This section shall apply to any person who became licensed between June 24, 2003, and July 15, 2004, through KRS 227A.080 prior to that statute's repeal on June 25, 2009, but whose license subsequently lapsed. That person may have his or her license reissued upon payment of a \$100 fee and retaking the regular examination required by the department for that license within one year of the fee payment. A license shall not be reissued under this section after July 31, 2020.

Signed by Governor April 26, 2018.

CHAPTER 187

(SB 112)

AN ACT relating to telehealth.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall provide oversight, guidance, and direction to Medicaid providers delivering care using telehealth as defined in Section 2 of this Act.*
- (2) *The cabinet shall:*
 - (a) *Develop policies and procedures to ensure the proper use and security for telehealth, including but not limited to confidentiality and data integrity, privacy and security, informed consent, privileging and credentialing, reimbursement, and technology;*
 - (b) *Promote access to health care provided via telehealth;*
 - (c) *Maintain a list of Medicaid providers who may deliver telehealth services to Medicaid recipients throughout the Commonwealth;*
 - (d) *Require that specialty care be rendered by a health care provider who is recognized and actively participating in the Medicaid program; and*
 - (e) *Require that any required prior authorization requesting a referral or consultation for specialty care be processed by the patient's primary care provider and that any specialist coordinate care with the patient's primary care provider.*
- (3) *The cabinet or a Medicaid managed care organization shall not:*
 - (a) *Require a Medicaid provider to be physically present with a Medicaid recipient, unless the provider determines that it is medically necessary to perform those services in person;*
 - (b) *Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person;*
 - (c) *Require a Medicaid provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in person;*
 - (d) *Require demonstration that it is necessary to provide services to a Medicaid recipient through telehealth;*
 - (e) *Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services; or*
 - (f) *Require a Medicaid provider to be part of a telehealth network.*
- (4) *The Medicaid program or a Medicaid managed care organization shall require a telehealth provider to be licensed in Kentucky in order to receive reimbursement for telehealth services.*
- (5) *The Medicaid program or a Medicaid managed care organization shall reimburse for covered services provided to a Medicaid recipient through telehealth, as defined in Section 2 of this Act. The department shall promulgate administrative regulations to establish requirements for telehealth coverage and reimbursement, which shall be equivalent to the coverage for the same service provided in person unless the telehealth provider and the Medicaid program or a Medicaid managed care organization contractually agree to a lower reimbursement rate for telehealth services, or the department establishes a different reimbursement rate.*
- (6) *Benefits for a service provided to a Medicaid recipient through telehealth may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the Medicaid program for the same service provided in person.*
- (7) *Nothing in this section shall be construed to require the Medicaid program or a Medicaid managed care organization to:*
 - (a) *Provide coverage for telehealth services that are not medically necessary; or*

(b) Reimburse any fees charged by a telehealth facility for transmission of a telehealth encounter.

- (8) The cabinet shall maintain telehealth policies and guidelines to providing care that ensure that Medicaid-eligible citizens will have safe, adequate, and efficient medical care, and that prevent waste, fraud, and abuse of the Medicaid program.***

➔Section 2. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

- (1) "Chiropractor" means a person authorized to practice chiropractic under KRS Chapter 312;
- (2) "Council" means the Advisory Council for Medical Assistance;
- (3) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;
- (4) "Health professional" means a physician, physician assistant, nurse, doctor of chiropractic, mental health professional, optometrist, dentist, or allied health professional who is licensed in Kentucky;
- (5) "Medical care" as used in this chapter means essential medical, surgical, chiropractic, dental, optometric, podiatric, telehealth, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists, or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing-home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;
- (6) "Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;
- (7) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;
- (8) "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;
- (9) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by administrative regulation of the secretary for health and family services or his designee;
- (10) "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;
- (11) "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;
- (12) "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;
- (13) "Primary-care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;
- (14) "Public assistance recipient" means a person who has been certified by the Department for Community Based Services of the Cabinet for Health and Family Services as being eligible for, and a recipient of, public assistance under the provisions of this chapter;
- (15) ***"Telehealth":***
 - (a) ***Means the delivery of health care-related services by a Medicaid provider who is a health care provider licensed in Kentucky to a Medicaid recipient through a face-to-face encounter with access to real-time interactive audio and video technology or store and forward services that are provided via asynchronous technologies as the standard practice of care where images are sent to a specialist for evaluation. The requirement for a face-to-face encounter shall be satisfied with the use of***

asynchronous telecommunications technologies in which the health care provider has access to the Medicaid recipient's medical history prior to the telehealth encounter;

- (b) *Shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call; and*
- (c) *Shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9;*
- (16) "Telehealth consultation" means a medical or health consultation, for purposes of patient diagnosis or treatment, that *meets the definition of telehealth in this section*~~requires the use of advanced telecommunications technology, including, but not limited to:~~
 - (a) ~~Compressed digital interactive video, audio, or data transmission;~~
 - (b) ~~Clinical data transmission via computer imaging for teleradiology or telepathology; and~~
 - (c) ~~Other technology that facilitates access to health care services or medical specialty expertise;~~
- (17)~~(16)~~ "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including, but not limited to, a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparations Act, Subtitle 39 of KRS Chapter 304, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq.; and
- (18)~~(17)~~ "Vendor payment" means a payment for medical care which is paid by the Cabinet for Health and Family Services directly to the authorized person or institution which rendered medical care to an eligible recipient.

➔Section 3. KRS 205.559 is amended to read as follows:

- (1) The Cabinet for Health and Family Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation *as defined in Section 2 of this Act* that is provided by a Medicaid-participating practitioner who is licensed in Kentucky~~and that is provided in the telehealth network established in KRS 194A.125(3)(b))~~.
- (2) (a) The cabinet shall establish reimbursement rates for telehealth consultations. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.
- (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.
- (3) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.
- (4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.
- (5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.
- (6) (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue *an annual*~~a quarterly~~ report to the Legislative Research Commission. This report shall include an analysis of:
 - 1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;
 - 2. The quality of care as a result of telehealth consultations rendered under this section; and
 - 3. Any other issues deemed relevant by the cabinet.

- (b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.
- (7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section.

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

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

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

9. A public health plan as established or maintained by a state, the United States government, a foreign country, or any political subdivision of a state, the United States government, or a foreign country that provides health coverage to individuals who are enrolled in the plan;
 10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)); or
 11. Title XXI of the Social Security Act, such as the State Children's Health Insurance Program.
- (b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (14) of this section;
- (9) "Dependent" means any individual who is or may become eligible for coverage under the terms of an individual or group health benefit plan because of a relationship to a participant;
- (10) "Employee benefit plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan as defined by ERISA;
- (11) "Eligible individual" means an individual:
- (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;
 - (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;
 - (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);
 - (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and
 - (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;
- (12) "Employer-organized association" means any of the following:
- (a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;
 - (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or
 - (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.
- Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, and except as otherwise provided by the definition of "large group" contained in subsection (30) of this section, an employer-organized association shall not be treated as an association, small group, or large group under this subtitle, provided that an employer-organized association that is a bona fide association as defined in subsection (5) of this section shall be treated as a large group under this subtitle;
- (13) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

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

defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

- (d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and
 - (e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:
 - 1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;
 - 2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or
 - 3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;
- (21) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or before December 31, 2000, that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, on or before December 31, 2000, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;
- (22) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code, or limited health service benefit plans, or direct primary care agreements established under KRS 311.6201, 311.6202, 314.198, and 314.199;
- (23) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, a pharmacist as defined pursuant to KRS Chapter 315, or home medical equipment and services provider as defined pursuant to KRS 309.402, and any of the following independent practicing practitioners:
- (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;
 - (b) Chiropractors licensed under KRS Chapter 312;
 - (c) Dentists licensed under KRS Chapter 313;
 - (d) Optometrists licensed under KRS Chapter 320;
 - (e) Physician assistants regulated under KRS Chapter 311;
 - (f) Advanced practice registered nurses licensed under KRS Chapter 314; and
 - (g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;
- (24) (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance Program, means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

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

benefit plan which covers employees of the employer or members of the organization, or whose beneficiaries may be eligible to receive any benefit as established in Section 3(7) of ERISA;

- (34) "Preventive services" means medical services for the early detection of disease that are associated with substantial reduction in morbidity and mortality;
- (35) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;
- (36) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;
- (37) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;
- (38) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;
- (39) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;
- (40) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;
- (41) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;
- (42) "Small group" means:
 - (a) A small employer with two (2) to fifty (50) employees; or
 - (b) An affiliated group or association with two (2) to fifty (50) eligible members;
- (43) "Standard benefit plan" means the plan identified in KRS 304.17A-250; and
- (44) "Telehealth":
 - (a) *Means the delivery of health care-related services by a health care provider who is licensed in Kentucky to a patient or client through a face-to-face encounter with access to real-time interactive audio and video technology or store and forward services that are provided via asynchronous technologies as the standard practice of care where images are sent to a specialist for evaluation. The requirement for a face-to-face encounter shall be satisfied with the use of asynchronous telecommunications technologies in which the health care provider has access to the patient's or client's medical history prior to the telehealth encounter;*
 - (b) *Shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call; and*
 - (c) *Shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9[has the meaning provided in KRS 311.550].*

➔Section 5. KRS 304.17A-138 is amended to read as follows:

- (1) (a) A health benefit plan shall *reimburse for covered services provided to an insured person through telehealth as defined in Section 4 of this Act. Telehealth coverage and reimbursement shall be equivalent to the coverage for the same service provided in person unless the telehealth provider and the health benefit plan contractually agree to a lower reimbursement rate for telehealth services*~~not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face to face consultation if the consultation is provided through the telehealth network established under KRS 194A.125. A health benefit plan may provide coverage for a consultation at a site not within the telehealth network at the discretion of the insurer.~~
- (b) *A health benefit plan shall not:*

1. *Require a provider to be physically present with a patient or client, unless the provider determines that it is necessary to perform those services in person;*
 2. *Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person;*
 3. *Require demonstration that it is necessary to provide services to a patient or client through telehealth;*
 4. *Require a provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in person;*
 5. *Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services; or*
 6. *Require a provider to be part of a telehealth network*~~[A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail].~~
- (2) *A health benefit plan shall require a telehealth provider to be licensed in Kentucky in order to receive reimbursement for telehealth services.*
- (3) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided *in person*~~[through a face-to-face consultation]~~.
- ~~(4)~~~~(3)~~ *Nothing in this section shall be construed to require a health benefit plan to:*
- (a) *Provide coverage for telehealth services that are not medically necessary; or*
 - (b) *Reimburse any fees charged by a telehealth facility for transmission of a telehealth encounter.*
- (5) Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.
- ~~(6)~~~~(4)~~ The department shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.
- ➔Section 6. KRS 342.315 is amended to read as follows:
- (1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.
 - (2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. Except as otherwise provided in KRS 342.316, the clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.
 - (3) The commissioner or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.
 - (4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.
 - (5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

- (6) Not less often than annually the designee of the secretary of the Cabinet for Health and Family Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the "Guides to the Evaluation of Permanent Impairment," and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.
- (7) The General Assembly finds that good public policy mandates the realization of the potential advantages, both economic and effectual, of the use of ~~telemedicine and telehealth~~. The commissioner may, to the extent that he or she finds it feasible and appropriate, require the use of ~~telemedicine and telehealth practices~~, as **defined in Section 4 of this Act**~~authorized under KRS 194A.125~~, in the independent medical evaluation process required by this chapter.

➔Section 7. KRS 18A.225 is amended to read as follows:

- (1) (a) The term "employee" for purposes of this section means:
1. Any person, including an elected public official, who is regularly employed by any department, office, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;
 2. Any certified or classified employee of a local board of education;
 3. Any elected member of a local board of education;
 4. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and
 5. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program;
- (b) The term "health benefit plan" for the purposes of this section means a health benefit plan as defined in KRS 304.17A-005;
- (c) The term "insurer" for the purposes of this section means an insurer as defined in KRS 304.17A-005; and
- (d) The term "managed care plan" for the purposes of this section means a managed care plan as defined in KRS 304.17A-500.
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more insurers authorized to do business in this state, a group health benefit plan that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a

minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (13) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

- (b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions the commissioner of insurance approves, whether or not otherwise permitted by the insurance laws.
 - (c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (20) of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.
 - (d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.
 - (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and ~~statutorily~~ ~~statutorially~~ required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including but not limited to loss ratios, reserves, and reinsurance agreements.
 - (f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.
 - (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.
 - (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (3) The premiums may be paid by the policyholder:
- (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;
 - (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or

- (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.
- (4) If an employee moves his place of residence or employment out of the service area of an insurer offering a managed health care plan, under which he has elected coverage, into either the service area of another managed health care plan or into an area of the Commonwealth not within a managed health care plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health benefit plan.
- (5) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.
- (6) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.
- (7) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.
- (8) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.
- (10) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.
- (11) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
- (12) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.
- (13) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.

- (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
 - (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.
- (14) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months pursuant to KRS 304.17A-132.
 - (15) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for the diagnosis and treatment of autism spectrum disorders consistent with KRS 304.17A-142.
 - (16) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining amino acid-based elemental formula pursuant to KRS 304.17A-258.
 - (17) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
 - (18) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
 - (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.
 - (20) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:
 - (a) The regional rating bid scenario shall not include a request for bid on a statewide option;
 - (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;
 - (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;
 - (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and
 - (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.
 - (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.
 - (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section shall comply with the provisions of KRS 304.17A-270 and 304.17A-525.

- (23) Any ~~fully~~ insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to 304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641 pertaining to emergency medical care, KRS 304.99-123, and any administrative regulations promulgated thereunder.
- (24) *Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 1, 2019, to public employees pursuant to this section shall comply with Section 5 of this Act.*

➔SECTION 8. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

A physician performing or inducing an abortion shall be present in person and in the same room with the patient. The use of telehealth as defined in Section 4 of this Act shall not be allowed in the performance of an abortion.

➔Section 9. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.
- (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
 - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11) (a)
 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
 2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
 3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

- (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
 - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
 - (13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
 - (14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
 - (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
 - (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
 - (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.
 - (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
 - (19) Except as provided in KRS 311.782(6), any person who intentionally violates KRS 311.782 shall be guilty of a Class D felony.
 - (20) Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.
 - (21) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
 - (22) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
 - (23) Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
 - (24) Any person who violates KRS 311.905(3) shall be guilty of a violation.
 - (25) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
 - (26)
 - (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor.
 - (b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.
 - (27) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
 - (28) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
 - (29) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
 - (30) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
 - (31) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).

- (32) (a) Any physician or qualified technician who violates KRS 311.727 shall be fined not more than one hundred thousand dollars (\$100,000) for a first offense and not more than two hundred fifty thousand dollars (\$250,000) for each subsequent offense.
- (b) In addition to the fine, the court shall report the violation of any physician, in writing, to the Kentucky Board of Medical Licensure for such action and discipline as the board deems appropriate.
- (33) Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense. In addition to any other penalty imposed for that violation, the board may, through the Attorney General, petition a Circuit Court to enjoin the person who is violating KRS 311.691 from practicing genetic counseling in violation of the requirements of KRS 311.690 to 311.700.
- (34) ***Any person convicted of violating Section 8 of this Act shall be guilty of a Class D felony.***

➔Section 10. The following KRS section is repealed:

194A.125 Telehealth Board -- Members -- Chair -- Scope of administrative regulations -- Board to make recommendations following consultation with Governor's office -- Universities of Kentucky and Louisville to report to General Assembly -- Receipt and dispensing of funds.

➔Section 11. This Act takes effect July 1, 2019.

Signed by Governor April 26, 2018.

CHAPTER 188

(SB 150)

AN ACT relating to executive branch ethics.

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

➔Section 1. KRS 11A.100 is amended to read as follows:

- (1) The provisions of KRS Chapter 13B shall apply to all commission administrative hearings, ***except for the provisions of:***
 - (a) ***KRS 13B.030(2)(b);***
 - (b) ***Subsections (1), (2), and (3) of Section 3 of this Act when a party fails to file an answer or otherwise participate; and***
 - (c) ***Subsection (7) of Section 4 of this Act.***
- (2) All administrative hearings of the commission carried out pursuant to the provisions of this section shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.
- (3) The commission, upon a finding pursuant to an administrative hearing that there has been clear and convincing proof of a violation of this chapter, may:
 - (a) Issue an order requiring the violator to cease and desist the violation; and
 - (b) Issue an order requiring the violator to file any report, statement, or other information as required by this chapter; and
 - (c) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any; and
 - (d) In writing, recommend to the violator's appointing authority that the violator be removed or suspended from office or employment, and include a recommendation for length of suspension, to be approved by the appointing authority, if any; and
 - (e) Issue an order requiring the violator to pay a civil penalty of not more than five thousand dollars (\$5,000) for each violation of this chapter.

- (4) In addition to any other remedies provided by law, any violation of this chapter which has substantially influenced the action taken by any state agency in any particular matter shall be grounds for voiding, rescinding, or canceling the action on such terms as the interests of the state and innocent third persons require.
- (5) The commission shall refer to the Attorney General evidence of violations of KRS 11A.040 for prosecution. The Attorney General shall have responsibility for all prosecutions under the law and may request from the commission all evidence collected in its investigation. The commission may represent itself through the general counsel in all subsequent proceedings.

➔Section 2. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
 - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
 - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
 - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
 - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
 - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
 - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
 - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
 - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
 - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
 - (a) Finance and Administration Cabinet
 - 1. Higher Education Assistance Authority
 - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
 - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
 - 2. Department of Revenue
 - a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
 - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205
 - (b) Cabinet for Health and Family Services

1. Office of Health Policy
 - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
 - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
 2. Department for Community Based Services
 - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
 3. Department for Income Support
 - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
 4. Department for Medicaid Services
 - a. Administrative appeal hearings following an external independent third-party review of a Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to the provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization, conducted under authority of KRS 205.646
- (c) Justice and Public Safety Cabinet
1. Department of Kentucky State Police
 - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
 2. Department of Corrections
 - a. Parole Board hearings conducted under authority of KRS Chapter 439
 - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
 - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
 3. Department of Juvenile Justice
 - a. Supervised placement revocation hearings conducted under KRS Chapter 635
- (d) Energy and Environment Cabinet
1. Department for Natural Resources
 - a. Surface mining hearings conducted under authority of KRS Chapter 350
 2. Department for Environmental Protection
 - a. Wild River hearings conducted under authority of KRS Chapter 146
 - b. Water resources hearings conducted under authority of KRS Chapter 151
 - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
 - d. Environmental protection hearings conducted under authority of KRS Chapter 224
 - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
 3. Public Service Commission
 - a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) Labor Cabinet
1. Department of Workers' Claims
 - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
 2. Kentucky Occupational Safety and Health Review Commission

- a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
- (f) Public Protection Cabinet
 - 1. Kentucky Claims Commission
 - a. Liability hearings conducted under authority of KRS 49.020(1) and 49.040 to 49.180
- (g) Education and Workforce Development Cabinet
 - 1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (h) Secretary of State
 - 1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (i) State universities and colleges
 - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
 - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
 - 3. Campus residency hearings conducted under authority of KRS Chapter 164
 - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
 - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
 - (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
 - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
 - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.
- (7) ***The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings held under KRS 11A.100.***
 - ➔Section 3. KRS 13B.050 is amended to read as follows:
- (1) In any administrative hearing, the agency shall conduct the hearing as soon as practicable and shall give notice of the hearing to the parties not less than twenty (20) days in advance of the date set for the hearing, unless otherwise required by federal law. An agency shall make reasonable effort to schedule a hearing on a date that is convenient to the parties involved.

- (2) The notice required by subsection (1) of this section shall be served on the parties by certified mail, return receipt requested, sent to the last known address of the parties, or by personal service, with the exception of notices of Personnel Board hearings and all board orders which may be served by first-class mail. Service by certified mail shall be complete upon the date on which the agency receives the return receipt or the returned notice.
- (3) The notice required by this section shall be in plain language and shall include:
 - (a) A statement of the date, time, place, and nature of the hearing;
 - (b) The name, official title, and mailing address of the hearing officer;
 - (c) The names, official titles, mailing addresses, and, if available, telephone numbers of all parties to the hearing, including the counsel or representative of the agency;
 - (d) A statement of the factual basis for the agency action along with a statement of issues involved, in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument;
 - (e) A reference to the specific statutes and administrative regulations which relate to the issues involved and the procedure to be followed in the hearing;
 - (f) A statement advising the person of his right to legal counsel;
 - (g) A statement of the parties' right to examine, at least five (5) days prior to the hearing, a list of witnesses the parties expect to call at the hearing, any evidence to be used at the hearing and any exculpatory information in the agency's possession; and
 - (h) A statement advising that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default under this chapter.
- (4) If an agency decides not to conduct an administrative hearing in response to a petition, the agency shall notify the petitioner of its decision in writing, with a brief statement of the agency's reasons and any administrative review available to the petitioner.
- (5) ***Subsections (1), (2), and (3) of this section shall not apply to notices issued under KRS 11A.080(4)(b) when a party fails to file an answer or otherwise fails to participate.***

➔Section 4. KRS 13B.090 is amended to read as follows:

- (1) In an administrative hearing, findings of fact shall be based exclusively on the evidence on the record. The hearing officer shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this Commonwealth. Hearsay evidence may be admissible, if it is the type of evidence that reasonable and prudent persons would rely on in their daily affairs, but it shall not be sufficient in itself to support an agency's findings of facts unless it would be admissible over objections in civil actions.
- (2) All testimony shall be made under oath or affirmation. Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party. The hearing officer may make a recommended order in an administrative hearing submitted in written form if the hearing officer determines there are no genuine issues of material fact in dispute and judgment is appropriate as a matter of law.
- (3) Any party shall have the right to inspect, at least five (5) days prior to the hearing, a list of all witnesses every other party expects to call at the hearing, and the available documentary or tangible evidence relating to an administrative hearing either in person or by counsel. Copies of documentary evidence may be obtained upon the payment of a fee, except documents protected from disclosure by state or federal law. Nothing in this section shall be construed as giving a party the right to examine or copy the personal notes, observations, or conclusions of the agency staff, unless exculpatory in nature, nor shall it be construed as allowing access to the work product of counsel for the agency. Conditions for examining and copying agency records, fees to be charged, and other matters pertaining to access to these records shall be governed by KRS 61.870 to 61.884. To the extent required by due process, the hearing officer may order the inspection of any records excluded from the application of KRS 61.870 to 61.884 under KRS 61.878 that relate to an act, transaction, or event that is a subject of the hearing, and may order their inclusion in the record under seal.
- (4) Objections to evidentiary offers may be made by any party and shall be noted in the record.

- (5) The hearing officer may take official notice of facts which are not in dispute, or of generally-recognized technical or scientific facts within the agency's specialized knowledge. The hearing officer shall notify all parties, either before or during the hearing, or in preliminary reports or otherwise, of any facts so noticed and their source. All parties shall be given an opportunity to contest facts officially noticed.
- (6) The agency shall cause all testimony, motions, and objections in a hearing to be accurately and completely recorded. Any person, upon request, may receive a copy of the recording or a copy of the transcript, if the hearing has been transcribed, at the discretion of the agency, unless the hearing is closed by law. The agency may prepare a transcript of a hearing or a portion of a hearing upon request but the party making the request shall be responsible for the transcription costs. The form of all requests and fees charged shall be consistent with KRS 61.870 to 61.884.
- (7) In all administrative hearings, unless otherwise provided by statute or federal law, the party proposing the agency take action or ~~grant~~ a benefit has the burden to show the propriety of the agency action or entitlement to the benefit sought. The agency has the burden to show the propriety of a penalty imposed or the removal of a benefit previously granted. The party asserting an affirmative defense has the burden to establish that defense. The party with the burden of proof on any issue has the burden of going forward and the ultimate burden of persuasion as to that issue. The ultimate burden of persuasion in all administrative hearings is met by a preponderance of evidence in the record, *except when a higher standard of proof is required by law*. Failure to meet the burden of proof is grounds for a recommended order from the hearing officer.

Signed by Governor April 26, 2018.

CHAPTER 189

(HB 193)

AN ACT relating to peace officers.

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

➔Section 1. KRS 508.025 is amended to read as follows:

- (1) A person is guilty of assault in the third degree when the actor:
 - (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:
 - 1. A state, county, city, or federal peace officer;
 - 2. An employee of a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
 - 3. An employee of the Department for Community Based Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job-related duties;
 - 4. Paid or volunteer emergency medical services personnel certified or licensed pursuant to KRS Chapter 311A, if the event occurs while personnel are performing job-related duties;
 - 5. A paid or volunteer member of an organized fire department, if the event occurs while the member is performing job-related duties;
 - 6. Paid or volunteer rescue squad personnel affiliated with the Division of Emergency Management of the Department of Military Affairs or a local disaster and emergency services organization pursuant to KRS Chapter 39F, if the event occurs while personnel are performing job-related duties;
 - 7. A probation and parole officer;
 - 8. A transportation officer appointed by a county fiscal court or legislative body of a consolidated local government, urban-county government, or charter government to transport inmates when

the county jail or county correctional facility is closed while the transportation officer is performing job-related duties;

9. A public or private elementary or secondary school or school district classified or certified employee, school bus driver, or other school employee acting in the course and scope of the employee's employment; or
 10. A public or private elementary or secondary school or school district volunteer acting in the course and scope of that person's volunteer service for the school or school district;~~[-or]~~
- (b) Being a person confined in a detention facility, or **a juvenile in a** state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, or urine, or other bodily fluid to be thrown upon an employee of the facility; **or**
 - (c) ***Intentionally causes a person, whom the actor knows or reasonably should know to be a peace officer discharging official duties, to come into contact with saliva, vomit, mucus, blood, seminal fluid, urine, or feces without the consent of the peace officer.***
- (2) (a) ***For violations of paragraphs (a) and (b) in subsection (1) of this section,*** assault in the third degree is a Class D felony.
 - (b) ***For violations of paragraph (c) in subsection (1) of this section, assault in the third degree is a Class B misdemeanor, unless the assault is with saliva, vomit, mucus, blood, seminal fluid, urine, or feces from an adult who knows that he or she has a serious communicable disease and competent medical or epidemiological evidence demonstrates that the specific type of contact caused by the actor is likely to cause transmission of the disease or condition, in which case it is a Class A misdemeanor.***
 - (c) ***As used in paragraph (b) of this subsection, "serious communicable disease" means a non-airborne disease that is transmitted from person to person and determined to have significant, long-term consequences on the physical health or life activities of the person infected.***

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

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

grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

- (4) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he or she will not appear, a complaint may be made before a judge and a warrant shall issue.
- (5){(4)} When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Signed by Governor April 26, 2018.

CHAPTER 190

(HB 207)

AN ACT relating to cell phones.

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

➔Section 1. KRS 520.010 is amended to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

- (1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order;
- (2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail;
- (3) "Dangerous contraband" means contraband which is capable of use to endanger the safety or security of a detention facility or persons therein, including, but not limited to, dangerous instruments as defined in KRS 500.080, any controlled substances, any quantity of an alcoholic beverage, and any quantity of marijuana, cell phones *not authorized under Section 2 of this Act*, and saws, files, and similar metal cutting instruments;
- (4) "Detention facility" means any building and its premises used for the confinement of a person:
 - (a) Charged with or convicted of an offense;
 - (b) Alleged or found to be delinquent;
 - (c) Held for extradition or as a material witness; or
 - (d) Otherwise confined pursuant to an order of court for law enforcement purposes;
- (5) "Escape" means departure from custody or the detention facility in which a person is held or detained when the departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period; and
- (6) As used in this section and KRS 520.015, "penitentiary" includes any facility operated by the Department of Corrections and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the Department of Corrections.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

Jailers in a county jail or regional jail shall create policies governing possession and use of cell phones within their jails by the jailer, deputy jailers, attorneys, and non-lawyer assistants as defined in KRS 31.100. These policies shall be clearly stated and posted in the entry of the jail and copies shall be made available to attorneys and non-lawyer assistants, upon request. These policies shall allow, but may provide reasonable conditions upon, attorneys to use cell phones in connection with their professional services in a detention facility.

Signed by Governor April 26, 2018.

CHAPTER 191**(HB 430)**

AN ACT relating to reorganization.

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

➔Section 1. KRS 196.026 is amended to read as follows:

The Department of Corrections shall consist of the following organizational units:

- (1) Personnel Division;
- (2) Office of Adult Institutions, which shall have the following divisions:
 - (a) Division of Operations and Program Services;
 - (b) Division of Medical Services;
 - (c) Division of Mental Health Services;
 - (d) Division of Substance Abuse Programming;
 - (e) Division of Correctional Industries;
 - (f) Division of Kentucky State Reformatory;
 - (g) Division of Luther Luckett Correctional Complex;
 - (h) Division of Roederer Correctional Complex;
 - (i) Division of Blackburn Correctional Complex;
 - (j) Division of Kentucky Correctional Institution for Women;
 - (k) Division of Northpoint Training Center Division;
 - (l) Division of Eastern Kentucky Correctional Complex;
 - (m) Division of Bell County Forestry Camp;
 - (n) Division of Kentucky State Penitentiary;
 - (o) Division of Western Kentucky Correctional Complex;
 - (p) Division of Green River Correctional Complex; and
 - (q) Division of Little Sandy Correctional Complex.

Each division specified in paragraphs (f) to (q) of this subsection shall be headed by a warden pursuant to KRS 196.160;

- (3) Office of Community Services and Facilities, which shall have the following divisions:
 - (a) Division of Probation and Parole;
 - (b) ***Division of Reentry***; and
 - ~~(c)(4)~~ Division of Local Facilities; and
- (4) Office of Support Services, which shall have the following divisions:
 - (a) Division of Administrative Services;
 - (b) Division of Corrections Training;
 - (c) Division of Population Management; and
 - (d) Division of Parole and Victim Services.

➔Section 2. The General Assembly hereby confirms Executive Order 2017-749, dated November 1, 2017, which reorganizes the Justice and Public Safety Cabinet Department of Corrections, to the extent that it is not otherwise confirmed or superseded by this Act.

Signed by Governor April 26, 2018.

CHAPTER 192

(HB 431)

AN ACT relating to reorganization.

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

➔Section 1. KRS 15A.020 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall have the following departments:
 - (a) Department of Corrections;
 - (b) Department of Criminal Justice Training, which shall have the following divisions:
 1. Training Operations Division; and
 2. Administrative Division;
 - (c) Department of Juvenile Justice, which shall have the following *offices*~~divisions~~:
 1. ***Office of Program Operations, which shall have the following divisions:***
 - a. ~~{Division of Medical Services;~~
 2. ~~{Division of Western Region;~~
 - ~~{3. Division of Central Region;}~~
 - b. ~~{4.}~~ Division of Eastern Region; *and*
 - c. ***Division of Placement Services;***
 2. ***Office of Support Services, which shall have the following divisions:***
 - ~~{5. Division of Southeastern Region;}~~
 - a. ~~{6.}~~ Division of Administrative Services;
 - b. ~~{7.}~~ Division of Program Services; *and*
 - c. ***Division of Medical Services; and***
 3. ***Office of Community and Mental Health Services, which shall have the following divisions:***
 - ~~{8. Division of Placement Services;}~~
 - a. ~~{9.}~~ Division of Professional Development; and
 - b. ~~{10.}~~ Division of Community and Mental Health Services;
 - (d) Department of Kentucky State Police, which shall have the following divisions:
 1. Administrative Division;
 2. Operations Division;
 3. Technical Services Division; and
 4. Commercial Vehicle Enforcement Division; and
 - (e) Department of Public Advocacy, which shall have the following divisions:
 1. Protection and Advocacy Division;

2. Division of Law Operations;
 3. Division of Trial Services;
 4. Division of Post-Trial Services; and
 5. Division of Conflict Services.
- (2) Each department, except for the Department of Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of justice and public safety with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department of Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department of Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department of Public Advocacy's information technology equipment and use unless granted access by court order.
- (3) The Justice and Public Safety Cabinet shall have the following offices:
- (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (b) Office of Management and Administrative Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, state and federal grants management, including but not limited to the administration of KRS 15A.060, fiscal functions, management and daily operations of the information processing activities for the cabinet, and management and daily administrative services for the cabinet; and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and 12.210, that:
 1. Shall provide legal representation and services for the cabinet; and
 2. May investigate all complaints regarding the facilities, staff, treatment of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency, Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The office may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department of Public Advocacy only when the investigation will have no prejudicial impact upon a person who has an existing attorney-client relationship with the Department of Public Advocacy. Notwithstanding the provisions of this subparagraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The office shall conduct no other investigations under the authority granted in this subparagraph. The secretary may, by administrative order, assign the investigative functions in this subparagraph to a branch within the office.
- The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;
- (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in KRS 15A.030. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

- (e) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director appointed pursuant to KRS 12.050 shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office; and
- (f) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office.

➔Section 2. The General Assembly hereby confirms Executive Order 2017-599, dated September 1, 2017, which reorganizes the Justice and Public Safety Cabinet Department of Corrections, to the extent that it is not otherwise confirmed or superseded by this Act.

Signed by Governor April 26, 2018.

CHAPTER 193

(HB 443)

AN ACT relating to nonprofit corporations.

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

➔Section 1. KRS 273.167 is amended to read as follows:

Except as otherwise prohibited by law, corporations may be organized under KRS 273.161 to 273.390 for any lawful purpose or purposes, including~~[-]~~ without being limited to~~[-]~~ any one (1) or more of the following purposes: charitable; benevolent; eleemosynary; educational; civic; patriotic; political; governmental; religious; social; recreational; fraternal; literary; cultural; athletic; scientific; agricultural; horticultural; animal husbandry; and professional, commercial, industrial, or trade association~~[-]; but labor unions, cooperative organizations, and organizations subject to any of the provisions of the insurance laws or banking laws of this state may not be organized under KRS 273.161 to 273.390.~~

➔Section 2. KRS 273.211 is amended to read as follows:

- (1) (a) *The board of directors shall consist of three (3) or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws, except as to the number of the first board of directors which shall be fixed by the articles of incorporation.*
- (b) *The articles of incorporation or bylaws may establish a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed by the board of directors, within the minimum and maximum, in the manner provided in the articles of incorporation or the bylaws.*
- (c) *No decrease in number shall have the effect of shortening the term of any incumbent director.*~~The number of directors of a corporation shall not be less than three (3). Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number of the first board of directors~~

~~which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation].~~

- (2) The directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the term of office, the term of office of a director shall be one (1) year, and until his successor is elected and has accepted his election.
- (3) Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified.
- (4) A director may be removed from office pursuant to any **removal** procedure ~~[therefor]~~ provided in the articles of incorporation **or bylaws**.
- (5) Every director of a corporation, by acceptance of election or appointment as a director, including by service, shall be deemed to have consented to the jurisdiction of the courts of the Commonwealth of Kentucky for any action by, in the name of, or on behalf of the corporation.

➔SECTION 3. KRS 273.221 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, a board of directors may create one (1) or more committees of the board and appoint directors to serve on the committee or committees. Each committee shall have two (2) or more directors, and all committee members shall serve at the pleasure of the board of directors. The board may delegate to one (1) or more directors the authority to appoint or remove the members of the committee. An individual who is not a director may serve on a committee of the board, but may not vote on any matter that binds the corporation.*
- (2) *To the extent specified by the board of directors or in the articles of incorporation or bylaws, a committee may exercise the powers of the board of directors under this chapter, except as limited by subsection (3) of this section.*
- (3) *A committee shall not:*
 - (a) *Authorize distributions;*
 - (b) *In the case of a membership corporation, authorize the repurchase or redemption of a member's membership in the corporation;*
 - (c) *In the case of a membership corporation, authorize or propose to members any action that this chapter requires be approved by members;*
 - (d) *Fill vacancies on the board of directors;*
 - (e) *Adopt, amend, or repeal bylaws;*
 - (f) *Elect, appoint, or remove any officer of the corporation;*
 - (g) *Establish a board committee or establish or alter the manner in which committee members are appointed to these committees;*
 - (h) *Amend or restate articles of incorporation;*
 - (i) *Adopt a plan of merger or consolidation;*
 - (j) *Authorize the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the corporation;*
 - (k) *Authorize the voluntary dissolution of the corporation or revoke proceedings therefor; or*
 - (l) *Amend, alter, or repeal any resolution of the board of directors.*

- (4) *Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, a board of directors may create one (1) or more advisory committees, whose members need not be directors. The board of directors may appoint and remove, or may designate any director or officer of the corporation to appoint and remove, the members of an advisory committee. An advisory committee may not act on behalf of the corporation or bind the corporation to any action but may make recommendations to the board of directors, to any board committee, or to the officers of the corporation.*
- (5) *The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in KRS 273.215.*

➔Section 4. KRS 273.237 is repealed, reenacted, and amended to read as follows:

- (1) A corporation shall not have or issue shares of stock. *Except as authorized by subsection (2) of this section, no dividend shall be paid and no part of the income or profit of a corporation shall be distributed to its members, directors, or officers.*~~[No dividend shall be paid and no part of the income or profit of a corporation shall be distributed to its members, directors or officers. A corporation may pay compensation in a reasonable amount to its members, directors, or officers for services rendered, may confer benefits upon its members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its members as permitted by KRS 273.161 to 273.390, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income or profit].~~
- (2) *A corporation may:*
- (a) *Pay reasonable compensation to its members, directors, or officers for services rendered to the corporation;*
 - (b) *Reimburse reasonable expenses to its members, directors, or officers in connection with services rendered to the corporation;*
 - (c) *Confer benefits upon its members in conformity with its purposes;*
 - (d) *Apply income or profit so as to reduce or eliminate dues, fees, or contributions that otherwise would be payable to the corporation by its members;*
 - (e) *Make distributions, subject to subsection (3) of this section, upon dissolution or final liquidation to its members as permitted by KRS 273.161 to 273.390, and no such payment, benefit, or distribution shall be deemed to be a dividend or a distribution of income or profit;*
 - (f) *Make distributions, subject to subsection (3) of this section, to any entity:*
 - 1. *That is exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, or any successor section; or*
 - 2. *That is a state, a possession of the United States, or any political subdivision of a state or a possession of the United States, or the United States or the District of Columbia, but only if the distribution under this subparagraph is made exclusively for public purposes; and*
 - (g) *Make distributions, subject to subsection (3) of this section and only by a corporation other than a charitable or religious corporation to purchase its memberships.*
- (3) *A corporation shall not make any distribution under subsection (2)(e), (f), or (g) of this section if at the time of, or as a result of, the distribution:*
- (a) *The corporation would not be able to pay its debts as they become due in the usual course of business; or*
 - (b) *The corporation's total assets would be less than the sum of its total liabilities.*

➔SECTION 5. KRS 273.219 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction shall not be the subject of equitable relief on the ground of the director's interest in the transaction if:*
- (a) *The material facts of the transaction and the director's interest were disclosed or known to the board of directors, or a committee of the board duly constituted under Section 3 of this Act, and the board of directors or the committee authorized, approved, or ratified the transaction; or*
 - (b) *The transaction was fair to the corporation.*

- (2) *For purposes of this section, a director of the corporation has an indirect interest in a transaction if:*
- (a) *Another entity in which he or she has a material financial interest is a party to the transaction; or*
 - (b) *Another entity of which he or she is a director, officer, general partner, manager, trustee, or person in a similar position is a party to the transaction, and the transaction is or should be considered by the board of directors of the corporation.*
- (3) *For purposes of subsections (1)(a) and (2)(b) of this section, director authorization, approval, or ratification is effective if done by a majority vote of the directors who do not have a direct or indirect interest in the transaction within the meaning of this section, even if the majority is less than a quorum, but a transaction may not be authorized, approved, or ratified by a single director. Director authorization may be delegated to a committee under Section 3 of this Act, provided that no director appointed to the committee has a direct or indirect interest within the meaning of this section. Director action under this section shall be done by a higher number than a majority, if the articles of incorporation or bylaws so provide.*
- (4) *For purposes of subsection (1) of this section, a director who has a direct or indirect interest in a transaction with the corporation shall bear the burden of proving that the transaction was fair to the corporation.*

➔Section 6. KRS 273.217 is amended to read as follows:

- (1) A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws.
- (2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously ~~communicate with~~~~hear~~ each other during this meeting. A director participating in a meeting by this means shall be deemed to be present in person at the meeting.
- (3) The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by KRS 273.161 to 273.390, the articles of incorporation or the bylaws.
- (4) Irrespective of whether or not the corporation has members, a director may not vote by proxy.

➔Section 7. KRS 273.233 is amended to read as follows:

Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in this state a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected and copied by any member, or the member's agent or attorney, for any proper purpose at any reasonable time. The member's right of inspection ~~may~~~~shall not~~ be abolished or limited by the corporation's articles of incorporation or bylaws.

Signed by Governor April 26, 2018.

CHAPTER 194

(HB 464)

AN ACT relating to insurance and declaring an emergency.

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

➔Section 1. KRS 304.5-140 is amended to read as follows:

- (1) (a) For the purposes of subsection ~~(4)~~~~(3)~~(c) of this section, a "qualified United States financial institution" means an institution that:
 - 1. Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

2. Is regulated, supervised, and examined by the United States federal or state authorities having regulatory authority over banks and trust companies; and
 3. Has been determined by the commissioner, or the Securities Valuation Office of the ~~NAIC~~~~[National Association of Insurance Commissioners]~~, to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.
- (b) A "qualified United States financial institution" means, for purposes of those provisions of this section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:
1. Is organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and
 2. Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.
- (c) *As used in this section, "NAIC" means National Association of Insurance Commissioners.*
- (2) (a) Credit for reinsurance shall be allowed a ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of:
1. Paragraphs (a), (b), (c), (d), ~~or~~ (e), *or (f) of subsection (3) of this section; and*
 2. *Paragraphs (b), (c), (d), and (e) of this subsection.*
- (b) *The commissioner may promulgate administrative regulations pursuant to subsection (8)(a)2. of this section that establish specific additional requirements relating to or setting forth:*
1. *The valuation of assets or reserve credits;*
 2. *The amount and forms of security supporting reinsurance arrangements described in that subsection; and*
 3. *The circumstances pursuant to which credit will be reduced or eliminated.*
- (c) *For reinsurers*~~[If]~~ meeting the requirements of ~~paragraph~~~~[paragraphs]~~ (c)~~[or (d)]~~ of subsection (3) of this section~~[subsection]~~, the requirements of paragraph (g)~~[(f)]~~ of ~~that~~~~[this]~~ subsection shall also be met.
- (d) *For reinsurers meeting the requirements of paragraph (d) of subsection (3) of this section, the requirements of paragraphs (g) and (h) of that subsection shall also be met.*
- (e) *For reinsurers meeting the requirements of paragraph (e) of subsection (3) of this section, the requirements of paragraph (h) of that subsection shall also be met.*
- (3) (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer ~~that~~~~[which]~~ is authorized to transact insurance or reinsurance in Kentucky.
- (b) 1. Credit shall be allowed when the reinsurance is ceded to an assuming insurer ~~that~~~~[which]~~ is accredited as a reinsurer in Kentucky. An accredited reinsurer is one which:
- a.~~[1.]~~ Files with the commissioner evidence of its submission to Kentucky's jurisdiction;
 - b.~~[2.]~~ Submits to Kentucky's authority to examine its books and records;
 - c.~~[3.]~~ Is licensed to transact insurance or reinsurance in at least one (1) state, or in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one (1) state;
 - d.~~[4.]~~ Files annually with the commissioner a copy of its annual statement filed with the insurance regulatory official of its state of domicile and a copy of its most recent audited financial statement;~~[-]~~ and~~[either:]~~
 - e.~~[a.]~~ *Demonstrates to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer meets the requirements of this subdivision at the time of its application if:*

- i.* **It** maintains a surplus as regards policyholders in an amount ~~that[which]~~ is not less than twenty million dollars (\$20,000,000); and
- ii.* ~~Its[whose]~~ accreditation has not been denied by the commissioner within ninety (90) days **after submission** of its **accreditation application**.~~[submission; or~~
- ~~b. Maintains a surplus as regards policyholders in an amount less than twenty million dollars (\$20,000,000) and whose accreditation has been approved by the commissioner.]~~

~~2.[5.]~~ Credit shall not be allowed a ceding insurer under this paragraph if the assuming insurer's accreditation has been revoked by the commissioner after notice and hearing.

- (c) Credit shall be allowed when the reinsurance is ceded to an assuming insurer ~~that[which]~~ is domiciled and licensed in or, in the case of a United States branch of an alien assuming insurer, is entered through a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this section and the assuming insurer or United States branch of an alien insurer:

- 1. Maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000); and
- 2. Submits to the authority of the commissioner to examine its books and records.

However, subparagraph 1. of this paragraph shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

- (d) 1. Credit shall be allowed when the reinsurance is ceded to an assuming insurer ~~that[which]~~ maintains a trust~~[fund]~~ in a qualified United States financial institution for the payment of valid claims of its United States policyholders and ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the ~~NAIC[National Association of Insurance Commissioners]~~ annual statement form by authorized insurers to enable the commissioner to determine the sufficiency of the trust~~[fund]~~.
- 2. *a.* In the case of a single assuming insurer, the trust~~[fund]~~ shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, **except as provided in subdivision b. of this subparagraph**, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars (\$20,000,000).
- b.* ***At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three (3) years, the commissioner may authorize a reduction in the trustee surplus required by subdivision a. of this subparagraph, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of a reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.***
- 3. In the case of a group including incorporated and individual unincorporated underwriters:~~[;]~~
 - a.* The trust shall consist of a trustee account representing the **respective underwriter's**~~[group's]~~ liabilities attributable to business written in the United States;~~[and, in addition,]~~
 - b.* The group shall maintain a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group;~~[;]~~
 - c.* The incorporated members of which group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency

regulation and control by the group's domiciliary regulator as are the unincorporated members; and

- d. The group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary insurance regulatory official and its independent public accountants.

4.~~[2.]~~ In the case of a group of incorporated *underwriters*~~[insurers]~~ under common administration, *the group shall:*

- a. *Comply*~~[which—complies]~~ with the *reporting*~~[filing]~~ requirements contained in subparagraph 1. of this paragraph;~~[-, and which is under the supervision of the Department of Trade and Industry of the United Kingdom and submits to the commissioner's authority to examine its books and records and bears the expense of the estimation, and which has]~~
- b. *Have continuously transacted insurance business outside the United States for at least three (3) years immediately prior to making an application for accreditation;*
- c. *Maintain a trust in an amount not less than the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;*
- d. *Maintain an* aggregate policyholders' surplus of *at least* ten billion dollars (\$10,000,000,000);~~[-, the trust shall be in an amount equal to the group's several liabilities attributable to business written in the United States plus the group shall maintain]~~
- e. *Maintain* a joint trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group;~~[-] and~~
- f. Each member of the group shall make available to the commissioner an annual certification of the member's solvency by the member's domiciliary insurance regulatory official and its independent public accountant.

5.~~[3.]~~ The trust shall be established in a form approved by the commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust shall remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

6.~~[4.]~~ No later than February 28 of each year, the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(e) 1. *Credit shall be allowed when the reinsurance is ceded to an assuming insurer that:*

- a. *Has been certified by the commissioner as a reinsurer in this state; and*
- b. *Secures its obligations in accordance with the requirements of this paragraph.*

2. *In order to be eligible for certification, the assuming insurer shall:*

- a. *Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by subparagraph 4. of this paragraph;*
- b. *Maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner by administrative regulation;*
- c. *Maintain financial strength ratings from two (2) or more rating agencies deemed acceptable by the commissioner by administrative regulation;*
- d. *Agree to submit to the jurisdiction of this state, appoint the commissioner as its agent for service of process in this state, and agree to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by*

- United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment;*
- e. Agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and*
 - f. Satisfy any other relevant requirements for certification as determined by the commissioner.*
3. *An association, including incorporated and individual unincorporated underwriters, may be certified as a reinsurer in this state if the association satisfies the requirements of subparagraph 2. of this paragraph and:*
- a. The association satisfies its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection;*
 - b. The incorporated members of the association are not engaged in any business other than underwriting as a member of the association and are subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and*
 - c. The association provides the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member within ninety (90) days after its financial statements are due to be filed with the association's domiciliary regulator, or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.*
4. *a. The commissioner shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in the qualified jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.*
- b. In order to determine whether the domiciliary jurisdiction of an assuming insurer from a jurisdiction outside of the United States is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction outside of the United States, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the jurisdiction outside of the United States to reinsurers licensed and domiciled in the United States. A qualified jurisdiction shall agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.*
- c. The commissioner shall consider the list of qualified jurisdictions published through the NAIC's committee process when determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list, the commissioner shall provide justification in accordance with criteria to be developed by the commissioner by administrative regulation.*
- d. Jurisdictions within the United States that meet the requirements for accreditation under the NAIC's financial standards and accreditation program shall be recognized as qualified.*
- e. If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner may revoke or suspend the reinsurer's certification indefinitely, in lieu of revocation.*
5. *The commissioner shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to*

the commissioner by administrative regulation. The commissioner shall publish a list of all certified reinsurers and their ratings.

6.
 - a. *A certified reinsurer shall secure obligations assumed from United States ceding insurers pursuant to this paragraph at a level consistent with its rating as specified by administrative regulation promulgated by the commissioner.*
 - b. *In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with subsection (4) of this section, or in a multibeneficiary trust in accordance with paragraph (d) of this subsection, except as otherwise provided in this paragraph.*
 - c. *If a certified reinsurer maintains a trust to fully secure its obligations subject to paragraph (d) of this subsection, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for:*
 - i. *Its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this paragraph or comparable laws of other United States jurisdictions; and*
 - ii. *Its obligation subject to paragraph (d) of this subsection.*
 - d. *The commissioner shall not grant a certification pursuant to this paragraph unless the certified reinsurer agrees to bind itself, by language of the trust and agreement with the commissioner with principal regulatory oversight of each trust account, to fund, upon termination of any applicable trust account, out of the remaining surplus of the trust any deficiency of any other trust account.*
 - e. *The minimum trustee surplus requirements provided in paragraph (d) of this subsection are not applicable to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred pursuant to this paragraph, except that the multibeneficiary trust shall maintain a minimum trustee surplus of ten million dollars (\$10,000,000).*
 - f. *With respect to obligations incurred by a certified reinsurer pursuant to this paragraph, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and the commissioner may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.*
 - g.
 - i. *For purposes of this paragraph, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure one hundred percent (100%) of its obligations.*
 - ii. *As used in this subdivision, "terminated" includes revocation, suspension, voluntary surrender, and inactive status, except if the commissioner continues to assign a higher rating as permitted by this subsection, a certified reinsurer in inactive status or reinsurer whose certification has been suspended shall not be considered "terminated."*
 7. *If an applicant for certification has been certified as a reinsurer in an NAIC-accredited jurisdiction, the commissioner may defer to that jurisdiction's certification and the rating assigned by that jurisdiction, and the reinsurer shall be considered a certified reinsurer in this state.*
 8. *A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.*
- (f) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraphs (a), (b), (c), ~~(d)~~ or (e) of this subsection, but only with respect to the

insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction or reinsurance ceded to a residual market mechanism reinsurance association, or the members thereof, created pursuant to law or which has been voluntarily created as such by its members with the approval of the commissioner.

~~(g)(4)~~ If the assuming insurer is not authorized, ***certified***, or accredited to transact insurance or reinsurance in Kentucky, the credit permitted by paragraphs (c) and (d) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, shall comply with all requirements necessary to give the court jurisdiction, and shall abide by the final decision of the court or of any appellate court in the event of an appeal; and
2. To designate the Secretary of State or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(h) If the assuming insurer does not satisfy the requirements of paragraphs (a), (b), or (c) of this subsection, the credit permitted by paragraphs (d) or (e) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

1. ***Notwithstanding any other provisions in the trust instrument, if the trust is inadequate because it contains an amount less than the amount required by paragraph (d)2. of this subsection, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust;***
2. ***The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies;***
3. ***If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement; and***
4. ***The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this paragraph.***

- (i) 1. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.***
2. ***The commissioner shall provide the reinsurer notice and an opportunity for hearing prior to the entry of a suspension or revocation order.***
 3. ***A suspension or revocation order shall not take effect until after a hearing is conducted, unless:***
 - a. ***The reinsurer waives its right to hearing;***
 - b. ***The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under paragraph (e)7. of this subsection; or***
 - c. ***The commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.***

4. *While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (4) of this section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with paragraph (e)6. of this subsection or subsection (4) of this section.*
- (j)
1. *A ceding insurer shall manage its reinsurance recoverables proportionate to its own book of business and diversify its reinsurance program.*
 2.
 - a. *A domestic ceding insurer shall notify the commissioner within thirty (30) days after:*
 - i. *Reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds fifty percent (50%) of the domestic ceding insurer's last reported surplus to policyholders; or*
 - ii. *It is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed the limit set forth in subpart i. of this subdivision.*
 - b. *A domestic ceding insurer shall notify the commissioner within thirty (30) days after:*
 - i. *Ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent (20%) of the ceding insurer's gross written premium in the prior calendar year; or*
 - ii. *It has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed the limit set forth in subpart i. of this subdivision.*
 - c. *The notification required by this subparagraph shall demonstrate that the exposure is safely managed by the domestic ceding insurer.*
- (k)
1. *In order to facilitate the prompt payment of claims, the commissioner may permit a certified reinsurer to defer posting the security for catastrophic recoverables for a period of up to one (1) year from the date of the first instance of a liability reserve entry by the ceding insurer as a result of a loss from a catastrophic occurrence.*
 2. *Upon notice by the ceding insurer to the commissioner that the certified reinsurer has failed to pay claims owed under a reinsurance agreement in a timely manner, the commissioner shall notify the certified reinsurer that it is no longer permitted to defer the posting of security for catastrophic recoverables.*
 3. *Reinsurance recoverables for only the following lines of business, as reported on the NAIC's annual financial statement related specifically to the catastrophic occurrence, shall be included in the deferral:*
 - a. *Fire;*
 - b. *Allied lines;*
 - c. *Farmowner's multiple peril;*
 - d. *Homeowner's multiple peril;*
 - e. *Commercial multiple peril;*
 - f. *Inland marine;*
 - g. *Earthquake; and*
 - h. *Auto physical damage.*
 4. *The commissioner may promulgate administrative regulations to establish the process for a certified reinsurer to seek a deferral of posting of security for catastrophic recoverables.*
- (4)(3) *An asset or a reduction from liability for the reinsurance ceded by an insurer to an assuming insurer not meeting the requirements of subsections[subsection] (2) and (3) of this section shall be allowed in an amount*

not exceeding the liabilities carried by the ceding insurer and the reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified United States financial institution. This security may be in the form of:

- (a) Cash;
- (b) Securities listed by the Securities Valuation Office of the ~~NAIC~~~~National Association of Insurance Commissioners~~ and qualifying as admitted assets, ***including those deemed exempt from filing, as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets***;
- (c) Clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance, or confirmation, shall, notwithstanding the issuing, or confirming, institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or
- (d) Any other form of security acceptable to the commissioner.

~~(5)(4)~~ Cession of bulk reinsurance by a domestic insurer is subject to KRS 304.24-420.

~~(6)(5)~~ (a) Credit shall be allowed as an asset or as a deduction from liability, to any ceding insurer for reinsurance ceded to an assuming insurer qualified therefor under subsections (2), (3), ~~or~~ (4), ***or (5)*** of this section, except that no such credit shall be allowed unless the reinsurance contract provides, in substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable under a contract reinsured by the assuming insurer on the basis of reported claims allowed by the liquidation court, without diminution because of the insolvency of the ceding insurer. Such payments shall be made directly to the ceding insurer or to its domiciliary liquidator except:

- 1. Where the contract or other written agreement specifically provides another payee of such reinsurance in the event of the insolvency of the ceding insurer; or
- 2. Where the assuming insurer, with the consent of the direct insured, has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees.

(b) The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against such ceding insurer on the contract reinsured within a reasonable time after such claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defenses which it deems available to the ceding insurer or its liquidator. Such expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two (2) or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer.

~~(7)(6)~~ Upon request of the commissioner an insurer shall promptly inform the commissioner in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

(8) (a) ***The commissioner may promulgate administrative regulations to:***

- 1. ***Implement the provisions of this section; and***
- 2. ***Regulate any of the following reinsurance arrangements:***
 - a. ***Life insurance policies with guaranteed nonlevel gross premium or guaranteed nonlevel benefits;***

- b. Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;*
 - c. Variable annuities with guaranteed death or living benefits;*
 - d. Long-term care insurance policies; or*
 - e. Such other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.*
- (b) An administrative regulation adopted pursuant to paragraph (a)2.a. or b. of this subsection may apply to any treaty containing policies issued:*
 - 1. On or after January 1, 2015; or*
 - 2. Prior to January 1, 2015, if risk pertaining to these policies is ceded in connection with the treaty in whole or in part, on or after January 1, 2015.*
- (c) An administrative regulation adopted pursuant to paragraph (a)2. of this subsection:*
 - 1. May require the ceding insurer, in calculating the amounts or forms of security required to be held by the insurer pursuant to this section, to use the Valuation Manual adopted by the NAIC under Section 11B(1) of the NAIC Standard Valuation Law, including all amendments adopted by the NAIC and in effect on the date as of which the calculation is made, to the extent applicable; and*
 - 2. Shall not apply to cessions to an assuming insurer that:*
 - a. Is certified in this state; or*
 - b. Maintains at least two hundred fifty million dollars (\$250,000,000) in capital and surplus when determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices, and is:*
 - i. Licensed in at least twenty-six (26) states; or*
 - ii. Licensed in at least ten (10) states, and licensed or accredited in a total of at least thirty-five (35) states.*
- (d) The authority to promulgate administrative regulations pursuant to paragraph (a)2. of this subsection shall not limit the commissioner's general authority to promulgate administrative regulations pursuant to paragraph (a)1. of this subsection.*
- ~~(9)(77)~~ Subsections (1) to ~~(4)(3)~~ of this section shall apply to all cessions after July 14, 1992, under reinsurance agreements which have had an inception, anniversary, or renewal date not less than six (6) months after July 14, 1992.

➔Section 2. The Department of Insurance is directed to conduct a comparison study of billing rates for medical bills submitted by providers to reparation obligors pursuant to KRS 304.39-020(5)(a).

- (1) As part of the study, and to the extent the information is reasonably available, the department shall consider information related to:
 - (a) Rates contained in the Kentucky workers' compensation medical fee schedule established in KRS 342.035(1) and in any administrative regulation adopted pursuant to it;
 - (b) Any other fee schedules related to medical payments as the department may deem appropriate;
 - (c) Other state medical billing practices for the same or similar benefits, as applicable; and
 - (d) Billed charges in the private health care market.
- (2) The department may contract with one or more organizations that maintain a database of billed and paid charges submitted by health care providers in order to obtain information for the study.
- (3) The department shall submit a final report of the study to the Interim Joint Committee on Banking and Insurance no later than November 15, 2018.

➔Section 3. Section 1 of this Act takes effect on January 1, 2019.

➔Section 4. Whereas immediate attention and information are required to combat an increase of insurance fraud in the Commonwealth related to the payment of reparation benefits, an emergency is declared to exist, and Section 2 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 26, 2018.

CHAPTER 195

(HB 476)

AN ACT relating to compensatory time.

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

➔Section 1. KRS 337.285 is amended to read as follows:

- (1) No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed.
- (2) This provision shall not apply to the following:
 - (a) Employees of retail stores engaged in work connected with selling, purchasing, and distributing merchandise, wares, goods, articles, or commodities;
 - (b) Employees of restaurant, hotel, and motel operations;
 - (c) Employees as defined and exempted from the overtime provision of the Fair Labor Standards Act in Sections 213(b)(1), 213(b)(6), 213(b)(10), and 213(b)(17) of Title 29, U.S.C.;
 - (d) Employees whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private nonprofit childcaring facilities licensed by the Cabinet for Health and Family Services under KRS 199.640 to 199.670; or
 - (e) Any individual who is employed by a third-party employer or agency other than the family or household using his or her services to provide in-home companionship services for a sick, convalescing, or elderly person.
- (3) As used in subsection (2) of this section, "companionship services" means those services which provide in-home fellowship, care, and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. These services may include household work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services. They may also include the performance of general household work, provided that the household work is incidental, i.e., does not exceed twenty percent (20%) of the total weekly hours worked. The term "companionship services" does not include services relating to the care and protection of the aged or infirm which require and are performed by trained personnel, such as a registered or practical nurse.
- (4) Notwithstanding the provisions of subsection (1) of this section or any other chapter of the KRS to the contrary, upon written request by a county or city employee *or a Trooper R Class or CVE R Class*, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county or city employee *or the Trooper R Class or CVE R Class* before the performance of the work, a county or city employee *or a Trooper R Class or CVE R Class* who is authorized to work one (1) or more hours in excess of the prescribed hours per week may be granted compensatory leave on an hour-for-hour basis. Upon the written request by a county or city employee *or a Trooper R Class or CVE R Class*, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county or city employee *or the Trooper R Class or CVE R Class*, before the performance of the work, a county or city employee *or a Trooper R Class or CVE R Class* who is not exempt from the provisions of the Federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. secs. 201 et seq., may be granted compensatory time in lieu of overtime pay, at the rate of not less than

one and one-half (1-1/2) hours for each hour the county or city employee *or the Trooper R Class or CVE R Class* is authorized to work in excess of forty (40) hours in a work week.

- (5) (a) Upon the request of the county or city employee *or the Trooper R Class or CVE R Class*, and as provided in subsection (4) of this section, compensatory time shall be awarded as follows:
 1. A county or city employee who provided work in excess of forty (40) hours in a public safety activity, an emergency response activity, or a seasonal activity as described in 29 C.F.R. sec. 553.24, may accrue not more than four hundred eighty (480) hours of compensatory time; or
 2. A county or city employee *or a Trooper R Class or CVE R Class* engaged in other work in excess of forty (40) hours, may accrue not more than two hundred forty (240) hours of compensatory time.
- (b) A county or city employee *or a Trooper R Class or CVE R Class* who has accrued four hundred eighty (480) hours of compensatory time off pursuant to paragraph (a)1. of this subsection, or two hundred forty (240) hours of compensatory time off pursuant to paragraph (a)2. of this subsection, shall for additional overtime hours of work, be paid overtime compensation.
- (6) A county or city employee *or a Trooper R Class or CVE R Class* who has accrued compensatory time off as provided in subsection (4) of this section, and who requested the use of compensatory time, shall be permitted by the employer to use the compensatory time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the employer. Mere inconvenience to the employer shall not constitute a sufficient basis for denial of a county or city employee's request *or a Trooper R Class or CVE R Class request* for compensatory time off.
- (7) If compensation is paid to a county or city employee *or a Trooper R Class or CVE R Class* for accrued compensatory time off, the compensation shall be paid at the regular rate earned by the county or city employee *or the Trooper R Class or CVE R Class* at the time the county or city employee *or the Trooper R Class or CVE R Class* receives the payment.
- (8) Upon a county or city employee's termination of employment *or the termination of employment of a Trooper R Class or CVE R Class*, all unused accrued compensatory time shall be paid at a rate of compensation not less than:
 - (a) The average regular rate received by the county or city employee *or the Trooper R Class or CVE R Class* during the last three (3) years of the *employment of the county or city employee or Trooper R Class or CVE R Class* ~~employee's employment~~; or
 - (b) The final regular rate received by the county or city employee *or Trooper R Class or CVE R Class*, whichever is higher.
- (9) Compensatory time shall not be used as a means to avoid statutory overtime compensation. A county or city employee *or a Trooper R Class or CVE R Class* shall have the right to use compensatory time earned and shall not be coerced to accept more compensatory time than an employer can realistically and in good faith expect to be able to grant within a reasonable period upon the county or city employee *or the Trooper R Class or CVE R Class* making the request for compensatory time off.
- (10) Nothing in subsections (4) to (9) of this section shall be construed to supersede any collective bargaining agreement, memorandum of understanding, or any other agreement between the employer and representative of the county or city employees *or the Trooper R Class or CVE R Class*.
- (11) As used in subsections (4) to (9) of this section: ~~{~~
 - (a) "County or city employee" means an employee of any county, city, charter county, consolidated local government, unified local government, or urban-county government, including an employee of a county or city elected official;
 - (b) "*CVE R Class*" has the same meaning as in KRS 16.010; and
 - (c) "*Trooper R Class*" has the same meaning as in KRS 16.010.
- (12) In addition to the designation of a work week under subsection (1) of this section, local governments, as defined in KRS 95A.210(3), may designate a work period for professional firefighter employees as defined in KRS 95A.210. The designated work period shall be not less than one (1) work week of seven (7) consecutive days and not more than four (4) work weeks of twenty-eight (28) consecutive days for purposes of complying with the requirements of the Federal Labor Standards Act of 1938, as amended, 29 U.S.C. secs. 201 et seq.

This subsection shall not exempt local governments from complying with the overtime requirements set forth in subsection (1) of this section and is intended to:

- (a) Clarify the option to designate both a work week for compliance with Kentucky law and a work period for compliance with the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. secs. 201 et seq.; and
 - (b) Allow for the application of the partial exemption set forth in 29 U.S.C. sec. 207(k) in determining overtime pay under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. secs. 201 et seq., only.
- (13) (a) A law enforcement department of a consolidated local government organized under KRS Chapter 67C shall not be deemed to have violated subsection (1) of this section with respect to the employment of a peace officer if:
- 1. The officer works eighty (80) hours or less in a work period of fourteen (14) consecutive days; and
 - 2. The law enforcement department and a representative of a collective bargaining unit certified under KRS 67C.408 that includes the officer agree to the exception.
- (b) It is the intent of this subsection to allow the employment of a peace officer for longer than forty (40) hours in any seven (7) consecutive days within a fourteen (14) day work period without incurring the obligation to pay a rate of not less than one and one-half (1-1/2) times the officer's hourly wage under subsection (1) of this section.

Signed by Governor April 26, 2018.

CHAPTER 196

(HB 513)

AN ACT relating to the provision of wastewater services.

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

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 73 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

- (1) *"Privately owned small wastewater treatment plant" or "plant" means all or any part of a sewage treatment facility, including the collection system that:*
 - (a) *Is designed to intercept, transport, and treat sewage before discharging it into the environment;*
 - (b) *Is not operated by a local government, special district, or governmental entity, including but not limited to a city, county, charter county, urban-county government, consolidated local government, unified local government, or board or commission operating under KRS Chapters 65, 67, 74, 76, or 220;*
 - (c) *Is not an industrial wastewater treatment plant;*
 - (d) *Is not a system designed to serve an individual household;*
 - (e) *Is not an agricultural operation; and*
 - (f) *Serves a localized customer base such as neighborhoods, developments, apartment or condominium complexes, businesses, or manufactured housing or mobile home parks; and*
- (2) *"Sewage" means the water-carried human or animal wastes from residences, buildings, or other places, together with industrial wastes or underground, surface, storm or other water as may be present.*

➔SECTION 2. A NEW SECTION OF SUBCHAPTER 73 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A regarding the issuance or the renewal of a discharge permit under KRS 224.10-100 to an owner of a privately owned small wastewater treatment plant that require a plant's owner to:

- (1) *Obtain and maintain a contract for insurance, or a financial instrument such as a letter of credit, for:*
 - (a) *Fire and extended coverage in an amount deemed sufficient by the cabinet to fully replace the plant or otherwise restore service to the customers served by the plant in the event the plant becomes nonfunctional due to risks such as fire or other natural disasters; and*
 - (b) *Commercial general liability coverage and products and completed operations coverage in an amount deemed sufficient by the cabinet to address potential general liabilities or products and completed operations liabilities;*
- (2) *Implement an asset management plan, the requirements of which shall be developed by the cabinet using nationally known or recognized best practices, methodologies, and guidelines;*
- (3) *Maintain adequate revenue to ensure continuity of service and the ability of the owner to:*
 - (a) *Operate and maintain the plant in a manner to meet all applicable state and federal laws during operation; and*
 - (b) *Implement the asset management plan designated for the plant; and*
- (4) *Conduct a structural analysis of the plant, as necessary.*

➔SECTION 3. A NEW SECTION OF SUBCHAPTER 73 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet may seek to have a receiver appointed to assume the management and operation of a privately owned small wastewater treatment plant if the plant:*
 - (a) *Presents a threat or likely threat to the public health or the environment;*
 - (b) *Is in substantial and recurring noncompliance with its discharge permit as issued by the cabinet; or*
 - (c) *The owner is unable or unwilling to operate or to provide for the proper operation of the plant.*
- (2) *If the cabinet, after following the procedures and conducting a hearing in accordance with KRS 224.10-410 or 224.10-420 and the administrative regulations promulgated thereunder, enters an order in which it finds that a plant meets any of the conditions of subsection (1) of this section, and after notification to the Public Service Commission if the plant is a utility as defined in KRS 278.010(3)(f), the cabinet may bring an action in the Franklin Circuit Court for an order attaching the assets of the plant and placing those assets under the sole control and responsibility of a receiver.*
- (3) *Within twenty (20) days after commencing an action in Franklin Circuit Court, the cabinet shall file a certified copy of the record of the administrative proceeding in which the secretary of the cabinet entered his or her findings.*
- (4) *During the pendency of any receivership, the receiver may bring or defend any cause of action on behalf of the owner of the plant as the court may authorize, including an action to raise rates or institute surcharges as necessary to properly operate, maintain, restore, and rehabilitate the plant and to pay the costs, fees, and expenses of the receiver.*
- (5) *The receiver shall control and manage the assets and operations of the plant until the Franklin Circuit Court, after reasonable notice and hearing, orders the receiver to return control of those assets to the plant's owner or to liquidate and transfer those assets as provided by law.*
- (6)
 - (a) *Notwithstanding subsection (2) of this section, the cabinet, after notification to the Public Service Commission if the plant is a utility as defined in KRS 278.010(3)(f), may petition the Franklin Circuit Court to appoint a temporary receiver to operate and manage the assets of the plant meeting the conditions set out in subsection (1) of this section.*
 - (b) *After notice to the owner of the plant, and after notification to the Public Service Commission if the plant is a utility as defined in KRS 278.010(3)(f), the court may grant a petition for the appointment of a temporary receiver, on terms and conditions as it deems appropriate, upon a showing by a preponderance of the evidence:*
 1. *That the plant is an immediate threat to the public health, safety, or the environment;*

2. *There is an immediate threat to the continued availability of service to the customers served by the plant; and*
3. *That the delay required for the cabinet to follow the procedures and conduct a hearing in accordance with subsection (2) of this section would place the public health or safety, the environment, or continued wastewater treatment service at unnecessary risk.*

➔Section 4. KRS 65.240 is amended to read as follows:

- (1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state, and jointly with any public agency of any other state or of the United States to the extent that the laws of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by KRS 65.210 to 65.300 upon a public agency.
- (2) Any two (2) or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of KRS 65.210 to 65.300. Appropriate action by ordinance, resolution or otherwise pursuant to law, of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.
- (3) *Any public agency may enter into agreements with another public agency or agencies pursuant to KRS 65.210 to 65.300 to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of its municipal or jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.*
- (4) A state-supported institution of higher education and one (1) or more county or independent public school districts may enter into agreements under KRS 65.210 to 65.300 for the purposes specified in KRS 65.230, notwithstanding any other provision of the statutes restricting, qualifying or limiting their authority to do so.

➔Section 5. KRS 74.407 is amended to read as follows:

- (1) (a) In addition to the other authority which water districts presently have under this chapter, water districts are hereby authorized to acquire, develop, maintain, and operate sewage disposal systems within the confines of their respective districts *or as authorized in paragraph (b) of this subsection*, except that such sewer systems shall not include territory within the boundaries of existing municipal corporations having the authority to provide such sewer services without the consent of such municipal corporations.
- (b) *Water districts may enter into agreements with another entity or entities to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of the district's jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.*
- (2) In the event of annexation of territory within a water district by another municipal corporation authorized to provide sewer systems and services, the water district may continue to provide and charge for sewer services within such newly annexed areas until such annexing municipal corporation makes adequate payment, by negotiation or condemnation, for such sewage disposal facilities owned and operated by the water district. The water district commissioners shall have all of the powers and authority, as regards sewer systems, that are conferred upon them for the purpose of furnishing a water supply under KRS 74.010 to 74.415.
- (3) If a water district that provides sewer services is also the water supplier, the water district may provide that rates for water service and sewer service be billed simultaneously and may enforce collection of lawful rates and charges for sewer services by discontinuing water service until payment of the delinquent charges, including penalties, interest, and reasonable fees for disconnection and reconnection, is made or some payment arrangement satisfactory to the water district is reached.
- (4) If a water district that provides sewer services is not the water supplier, the water district may enforce collection of delinquent sewer service charges in the manner provided in KRS 96.930 to 96.943.

➔Section 6. KRS 76.080 is amended to read as follows:

The district created under the provisions of KRS 76.010 to 76.210 is empowered:

- (1) To have jurisdiction, control, possession, and supervision of the existing sewer and drainage system of the city forming a district pursuant to KRS 76.010; to maintain, operate, reconstruct, and improve the same as a comprehensive sewer and drainage system; to make additions, betterments, and extensions thereto within the district area; and to have all the rights, privileges, and jurisdiction necessary or proper for carrying such powers into execution. No enumeration of powers in KRS 76.010 to 76.210 shall operate to restrict the meaning of this general grant of power or to exclude other powers comprehended within this general grant.
- (2) To prepare or cause to be prepared and to be thereafter revised and adopted, plans, designs, and estimates of costs, of a system of trunk, intercepting, connecting, lateral, and outlet sewers, storm water drains, pumping and ventilating stations, disposal and treatment plants and works, and all other appliances and structures which in the judgment of the board will provide an effective and advantageous means for relieving the district area from inadequate sanitary and storm water drainage and from inadequate sanitary disposal and treatment of the sewage thereof, or such sections or parts of such system of the district area as the board may from time to time deem proper or convenient to construct, consistent with the plans and purposes of KRS 76.010 to 76.210, and may take all steps the board deems proper and necessary to effect the purposes of KRS 76.010 to 76.210.
- (3) To construct any additions, betterments and extensions to the facilities of the district, within or without the district area, and to construct any construction subdistrict facilities or additions, betterments and extensions thereto, within or without the district area, by contract or under, through, or by means of its own officers, agents and employees. No construction or extensions shall be started within the city forming a district pursuant to KRS 76.010 until, firstly, the city's director of works, and secondly, its board of aldermen have approved the plans. No construction or extensions shall be started in any city with a population greater than three thousand (3,000) but less than one hundred thousand (100,000) based upon the most recent federal decennial census until the governing authorities of such city or cities have approved the plans. No construction or extensions shall be started in any other part of the county until the plans have been approved, firstly, by the county engineer and, secondly, by the fiscal court.
- (4) To establish, construct, operate, and maintain, as a part of the sewer and drainage system of the district, sewage treatment and disposal plants and systems and all the appurtenances and appliances thereunto belonging. The sewage treatment and disposal plants may be located in the city, or beyond the limits of the city in the county in which the city is located, as the board deems expedient.
- (5) To acquire and hold the personal property the board deems necessary and proper for carrying out the corporate purposes of the district and to dispose of personal property when the district has no further need therefor.
- (6) To acquire by purchase, gift, lease, or by condemnation, real property or any interest, right, easement, or privilege therein, as the board determines necessary, proper and convenient for the corporate purposes of the district, and to use the same so long as its corporate existence continues, and same is necessary or useful for the corporate purposes of the district. Condemnation proceedings may be instituted in the name of the district pursuant to a resolution of the board declaring the necessity for the taking, and the method of condemnation shall be the same as provided in the Eminent Domain Act of Kentucky. When the board by resolution declares that any real property which it has acquired, or any interest therein, is no longer necessary or useful for the corporate purposes of the district, the real property and interest therein may be disposed of.
- (7) To make bylaws and agreements for the management and regulation of its affairs and for the regulation of the use of property under its control and for the establishment and collection of sewer rates, rentals and charges, which sewer rates, rentals and charges, applicable within the limits of a city forming a district pursuant to KRS 76.010, shall be subject to the approval, supervision and control of the legislative body of the city as hereinafter provided.
- (8) To make contracts and execute all instruments necessary or convenient in the premises.
- (9) To borrow money and to issue negotiable bonds and to provide for the rights of the holders thereof.
- (10) To fix and collect sewer rates, rentals, and other charges, for services rendered by the facilities of the district, which sewer rates, rentals, and other charges, applicable within the limits of a city forming a district pursuant to KRS 76.010, shall be subject to the approval, supervision and control of the legislative body of such city as hereinafter provided.
- (11) To enter on any lands, waters and premises for the purpose of making surveys, and soundings and examinations.
- (12) To approve or revise the plans and designs of all trunk, intercepting, connecting, lateral and outlet sewers, storm water drains, pumping and ventilating stations, disposal and treatment plants and works proposed to be

constructed, altered or reconstructed by any other person or corporation, private or public, in the whole county, in order to insure that such proposed construction, alteration or reconstruction shall conform to and be a part of a comprehensive sewer and drainage system for the said county. No sewers, drains, pumping and ventilating stations, or disposal and treatment plants or works shall be constructed, altered or reconstructed without approval by the board of the district. Any such work shall be subject to inspection and supervision of the district.

- (13) ***To enter into agreements with another entity or entities to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of the district's jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.***

➔Section 7. KRS 76.231 is amended to read as follows:

- (1) As an alternative to establishing a metropolitan sewer district pursuant to KRS 76.010, any city with a population equal to or greater than twenty thousand (20,000) but less than one hundred thousand (100,000) based upon the most recent federal decennial census, together with the county in which it is located, may jointly establish a sewer agency for the purpose of providing sewer and drainage facilities within the city and the county.
- (2) A joint sewer agency shall be established upon the enactment of identical ordinances establishing and setting out the powers of the agency by both the legislative body of the city and the fiscal court of the county.
- (3) All the powers granted a metropolitan sewer district in cities of the first class by KRS 76.010 to 76.279 may be granted by ordinance to the sewer agency except that these powers may be restricted or qualified in order to conform to the local needs of the county and the city.
- (4) The legislative body of the city and the fiscal court of the county shall establish a schedule of rates, rentals and charges to be collected from all real property served by the facilities of the sewer agency in the manner provided by KRS 76.090. If the city, county, and sewer agency find that local needs warrant, uniformity of rates for all residential property shall not be required for a period of no more than ten (10) years from the date the sewer agency is established under subsection (2) of this section. If for whatever reason the city and county cannot agree to amendments to a rate schedule, the current schedule shall remain in effect until such time as an agreement can be reached.
- (5) For purposes of establishing a schedule of rates, rentals, and charges to be collected, the legislative body of the city and the fiscal court of the county may prescribe by joint ordinance for the creation of a rate adjustment board that shall be comprised of the members of both legislative bodies, sitting as a single body. Upon the creation of a rate adjustment board, a simple majority of the combined membership of the rate adjustment board shall be required to establish rates, rentals, and charges to be collected.
- (6) The joint sewer agency shall be administered as a separate legal entity or by a jointly appointed administrator or joint board as set out in the establishing ordinances.
- (7) The joint sewer agency may be dissolved only by a joint action of the legislative body of the city and the fiscal court of the county. The establishing ordinance may be amended in the same manner as originally enacted.
- (8) The legislative body of any city with a population of less than twenty thousand (20,000) based upon the most recent federal decennial census may by ordinance elect to be within the jurisdiction of a joint sewer agency established pursuant to this section.
- (9) ***The joint sewer agency may enter into agreements with another entity or entities to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of the agency's jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.***

➔Section 8. KRS 76.232 is amended to read as follows:

- (1) A city with a population less than twenty thousand (20,000) based upon the most recent federal decennial census together with the county in which it is located or together with the sanitation district, or any city with a population equal to or greater than twenty thousand (20,000) but less than one hundred thousand (100,000) based upon the most recent federal decennial census together with the county in which it is located or together

with the sanitation district, as an alternative to establishing a metropolitan sewer district under KRS 76.010, may jointly establish a sewer agency for the purpose of providing sewer and drainage facilities within the city and the county or within the city and the sanitation district.

- (2) In order to establish a joint sewer agency under this section, the legislative body of the city, the fiscal court of the county, or the governing body of the sanitation district may vote to merge any existing agency or sanitation district or any portion thereof into the jointly established sewer agency or into an existing city or county sewer agency. If the legislative body of the city, fiscal court of the county, or governing body of the sanitation district determines to merge an existing agency or sanitation district into the joint sewer agency, it shall determine a method to satisfy any legal obligations of the existing agency or sanitation district which might be affected.
- (3) A joint sewer agency shall be established upon the enactment of identical agreements establishing and setting out the powers of the sewer agency by all parties establishing the joint sewer agency. Any agreement enacted by a city or county shall be by ordinance. Any agreement enacted by a sanitation district shall be done in the same manner as any other official actions taken by the sanitation district.
- (4) All the powers granted a metropolitan sewer district and cities of the first class by KRS 76.010 to 76.279 may be granted by ordinance to the joint sewer agency except that such powers may be restricted or qualified in order to conform to the local needs of the county, city, and sanitation district.
- (5) The joint sewer agency shall be administered as a separate legal entity or by a jointly appointed administrator, joint board, or one of the merging entities, as set out in the ordinance creating the joint sewer agency.
- (6) The joint sewer agency may be dissolved only by adoption of an ordinance of the legislative body of the city and the fiscal court of the county. The ordinance creating the joint sewer agency shall be amended in the same manner as originally enacted.
- (7) The legislative body of any city with a population of less than twenty thousand (20,000) based upon the most recent federal decennial census may by ordinance elect to be within the jurisdiction of a joint sewer agency established pursuant to this section.
- (8) ***The joint sewer agency may enter into agreements with another entity or entities to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of the agency's jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.***

➔Section 9. KRS 76.325 is amended to read as follows:

The powers of the commission shall be:

- (1) To construct, operate and maintain a sewerage and/or drainage system and sewers and drains within the boundaries of the sewer construction district, or to contract with a metropolitan sewer district for such construction, operation and/or maintenance;
- (2) To provide for disposition of the sewage and/or drainage, and for treatment of sewage, either through its own facilities or by contract with the metropolitan sewer district;
- (3) To clean out, straighten, alter, deepen, fill up or otherwise improve any stream, watercourse receiving sewage, liquid wastes or drainage, located in or out of the district;
- (4) To construct, operate and maintain trunk sewers, intercepting sewers, laterals, siphons, pumping stations, sewage treatment and disposal works necessary for the purposes of the district, through its own facilities or by contract with the metropolitan sewer district;
- (5) To hold, control, acquire by purchase, donation or condemnation any real or personal property necessary for location, construction, operation or maintenance of its works and improvements and easements for rights of way;
- (6) Upon completion of construction of any integral part of the sewer or drainage system, to contract for the operation and maintenance of its works and improvements or easements for rights of way;
- (7) Upon completion of construction of any integral part of the sewer or drainage system, to contract for the operation and maintenance of, and extensions to, such part of the system, with the metropolitan sewer district on a service basis for the users, or, with the approval of the court, to have the territory in such part of the sewer

construction district incorporated into the metropolitan sewer district for service as provided to other property within said metropolitan sewer district; *and*

- (8) *To enter into agreements with another entity or entities to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of the district's jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.*

➔SECTION 10. A NEW SECTION OF KRS 220.010 TO 220.540 IS CREATED TO READ AS FOLLOWS:

A sanitation district may enter into agreements with another entity or entities to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of the district's jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.

Signed by Governor April 26, 2018.

CHAPTER 197

(HB 517)

AN ACT relating to grandparent visitation.

WHEREAS, studies have shown that relationships between adolescents and grandparents contribute to the adolescents' well-being; and

WHEREAS, studies have also shown that grandparents are instrumental in times of family adversity and help the whole family to survive a crisis; and

WHEREAS, emotionally close ties between grandparents and grandchildren provide a wide variety of benefits to both grandparent and grandchild; and

WHEREAS, the opioid epidemic and rise in drug abuse has led to an increase in the number of families that are pulled apart; and

WHEREAS, there are over 70,000 children in Kentucky that are no longer living with their parents, including over 8,000 children in foster care and over 30,000 homeless children; and

WHEREAS, the presence of healthy, supportive grandparents has been shown to be a factor in distinguishing well-functioning children of drug abusers; and

WHEREAS, there is a rapidly increasing number of grandparents who serve as the primary caregivers for children;

NOW, THEREFORE,

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

➔Section 1. KRS 405.021 is amended to read as follows:

- (1) (a) The Circuit Court may grant reasonable visitation rights to either the paternal or maternal grandparents of a child and issue any necessary orders to enforce the decree if it determines that it is in the best interest of the child to do so. Once a grandparent has been granted visitation rights under this subsection, those rights shall not be adversely affected by the termination of parental rights belonging to the grandparent's son or daughter, who is the father or mother of the child visited by the grandparent, unless the Circuit Court determines that it is in the best interest of the child to do so.
- (b) *If the parent of the child who is the son or daughter of the grandparent is deceased, there shall be a rebuttable presumption that visitation with the grandparent is in the best interest of the child if the grandparent can prove a pre-existing significant and viable relationship with the child.*

(c) *In order to prove a significant and viable relationship under paragraph (b) of this subsection, the grandparent shall prove by a preponderance of the evidence that:*

1. *The child resided with the grandparent for at least six (6) consecutive months with or without the current custodian present;*
2. *The grandparent was the caregiver of the child on a regular basis for at least six (6) consecutive months;*
3. *The grandparent had frequent or regular contact with the child for at least twelve (12) consecutive months; or*
4. *There exist any other facts that establish that the loss of the relationship between the grandparent and the child is likely to harm the child.*

(2) The action shall be brought in Circuit Court in the county in which the child resides.

(3) The Circuit Court may grant noncustodial parental visitation rights to the grandparent of a child if the parent of the child who is the son or daughter of the grandparent is deceased and the grandparent has assumed the financial obligation of child support owed by the deceased parent, unless the court determines that the visitation is not in the best interest of the child. If visitation is not granted, the grandparent shall not be responsible for child support.

➔Section 2. KRS 620.090 is amended to read as follows:

- (1) If, after completion of the temporary removal hearing, the court finds there are reasonable grounds to believe the child is dependent, neglected or abused, the court shall issue an order for temporary removal and shall grant temporary custody to the cabinet or other appropriate person or agency. Preference shall be given to available and qualified relatives of the child considering the wishes of the parent or other person exercising custodial control or supervision, if known. The order shall state the specific reasons for removal and show that alternative less restrictive placements and services have been considered. The court may recommend a placement for the child.
- (2) In placing a child under an order of temporary custody, the cabinet or its designee shall use the least restrictive appropriate placement available. Preference shall be given to available and qualified relatives of the child considering the wishes of the parent or other person exercising custodial control or supervision, if known. The child may also be placed in a facility or program operated or approved by the cabinet, including a foster home, or any other appropriate available placement. However, under no circumstance shall the child be placed in a home, facility, or other shelter with a child who has been committed to the Department of Juvenile Justice for commission of a sex crime as that term is defined in KRS 17.500, unless the child committed for the commission of a sex crime is kept segregated from other children in the home, facility, or other shelter that have not been committed for the commission of a sex crime.
- (3) If the court finds there are not reasonable grounds to believe the child is dependent, neglected or abused, or if no action is taken within seventy-two (72) hours, the emergency custody order shall be dissolved automatically and the cabinet or its designee shall return the child to the parent or other person exercising custodial control or supervision. A request for a continuance of the hearing by the parent or other person exercising custodial control or supervision shall constitute action precluding automatic dissolution of the emergency custody order.
- (4) When the court issues a temporary order for the custody of a child, the court may order that, within two (2) weeks, arrangements be made for the child to receive a thorough medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. The costs of the examination shall be paid by the cabinet.
- (5) The child shall remain in temporary custody with the cabinet for a period of time not to exceed forty-five (45) days from the date of the removal from his home. The court shall conduct the adjudicatory hearing and shall make a final disposition within forty-five (45) days of the removal of the child. The court may extend such time after making written findings establishing the need for the extension and after finding that the extension is in the child's best interest.
- (6) *If custody is granted to a grandparent of the child pursuant to this section, the court shall consider granting reasonable visitation rights to any other grandparent of the child if the court determines the grandparent has a significant and viable relationship with the child as established in subsection (1)(c) of Section 1 of this Act.*

Signed by Governor April 26, 2018.

CHAPTER 198

(HB 528)

AN ACT relating to joint custody.

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

➔Section 1. KRS 403.270 is amended to read as follows:

- (1) (a) As used in this chapter and KRS 405.020, unless the context requires otherwise, "de facto custodian" means a person who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who has resided with the person for a period of six (6) months or more if the child is under three (3) years of age and for a period of one (1) year or more if the child is three (3) years of age or older or has been placed by the Department for Community Based Services. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period.
- (b) A person shall not be a de facto custodian until a court determines by clear and convincing evidence that the person meets the definition of de facto custodian established in paragraph (a) of this subsection. Once a court determines that a person meets the definition of de facto custodian, the court shall give the person the same standing in custody matters that is given to each parent under this section and KRS 403.280, 403.340, 403.350, 403.822, and 405.020.
- (2) The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent and to any de facto custodian. ***Subject to Section 5 of this Act, there shall be a presumption, rebuttable by a preponderance of evidence, that joint custody and equally shared parenting time is in the best interest of the child. If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian has with the child and is consistent with ensuring the child's welfare.*** The court shall consider all relevant factors including:
 - (a) The wishes of the child's parent or parents, and any de facto custodian, as to his ***or her*** custody;
 - (b) The wishes of the child as to his ***or her*** custodian, ***with due consideration given to the influence a parent or de facto custodian may have over the child's wishes;***
 - (c) The interaction and interrelationship of the child with his ***or her*** parent or parents, his ***or her*** siblings, and any other person who may significantly affect the child's best interests;
 - (d) ***The motivation of the adults participating in the custody proceeding;***
 - (e) The child's adjustment ***and continuing proximity*** to his ***or her*** home, school, and community;
 - ~~(f)(e)~~ The mental and physical health of all individuals involved;
 - ~~(g)(f)~~ ***A finding by the court that domestic violence and abuse, as defined in KRS 403.720, has been committed by one (1) of the parties against a child of the parties or against another party. The court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to each party, with due consideration given to efforts made by a party toward the completion of any domestic violence treatment, counseling, or program;***
 - ~~(h)(g)~~ The extent to which the child has been cared for, nurtured, and supported by any de facto custodian;
 - ~~(i)(h)~~ The intent of the parent or parents in placing the child with a de facto custodian;~~and~~
 - ~~(j)(i)~~ The circumstances under which the child was placed or allowed to remain in the custody of a de facto custodian, including whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence as defined in KRS 403.720 and whether the child was placed with a de

facto custodian to allow the parent now seeking custody to seek employment, work, or attend school;
and

- (k) *The likelihood a party will allow the child frequent, meaningful, and continuing contact with the other parent or de facto custodian, except that the court shall not consider this likelihood if there is a finding that the other parent or de facto custodian engaged in domestic violence and abuse, as defined in KRS 403.720, against the party or a child and that a continuing relationship with the other parent will endanger the health or safety of either that party or the child.*

- (3) ~~{The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child. If domestic violence and abuse is alleged, the court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.~~

- (4) ~~{The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.~~

- (4)(5) ~~The court may grant joint custody to the child's parents, or to the child's parents and a de facto custodian, if it is in the best interest of the child.~~

- (6) ~~{If the court grants custody to a de facto custodian, the de facto custodian shall have legal custody under the laws of the Commonwealth.~~

➔Section 2. KRS 403.280 is amended to read as follows:

- (1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in KRS 403.350. The court may award temporary custody under the standards of KRS 403.270 after a hearing, or, if there is no objection, solely on the basis of the affidavits. If the parents or a de facto custodian joined under subsection (9) of this section present a temporary custody agreement and mutually agreed plan for parenting time, and the court confirms that the agreement adequately provides for the welfare of the child, the agreement shall become the temporary custody order of the court.
- (2) *Subject to Section 5 of this Act*, in making an order for temporary custody, there shall be a presumption, rebuttable by preponderance of evidence, that *it is in the best interest of the child for* the parents or a de facto custodian joined under subsection (9) of this section ~~to~~~~shall~~ have temporary joint custody and ~~share~~ share equally in parenting time.
- (3) If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian joined under subsection (9) of this section has with the child and is consistent with ensuring the child's welfare.
- (4) Each temporary custody order shall include specific findings of fact and conclusions of law, except when the court confirms the agreement of the parties.
- (5) Any temporary custody order shall address the circumstance in which physical possession of the child will be exchanged.
- (6) Subject to KRS 403.320(4) and 403.340(5), modification of a temporary custody order may be sought when there is a material and substantial change in the circumstances of the parents, de facto custodian, or child.
- (7) If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree be issued.
- (8) If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation under KRS 403.822(1)(a) or (b) is dismissed, any temporary custody order is vacated.
- (9) If a court determines by clear and convincing evidence that a person is a de facto custodian, the court shall join that person in the action, as a party needed for just adjudication under Rule 19 of the Kentucky Rules of Civil Procedure.

➔Section 3. KRS 403.320 is amended to read as follows:

- (1) A parent not granted custody of the child *and not awarded shared parenting time under the presumption specified in subsection (2) of Section 1 of this Act, subsection (2) of Section 2 of this Act, or subsection (6) of Section 4 of this Act* is entitled to reasonable visitation rights unless the court finds, after a hearing, that

visitation would endanger seriously the child's physical, mental, moral, or emotional health. Upon request of either party, the court shall issue orders which are specific as to the frequency, timing, duration, conditions, and method of scheduling visitation and which reflect the development age of the child.

- (2) If domestic violence and abuse, as defined in KRS 403.720, has been alleged, the court shall, after a hearing, determine the visitation arrangement, if any, which would not endanger seriously the child's or the custodial parent's physical, mental, or emotional health.
- (3) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child; but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger seriously the child's physical, mental, moral, or emotional health.
- (4) (a) Except as provided in paragraph (b) of this subsection, any court-ordered modification of a child visitation decree, based in whole or in part on:
 1. The active duty of a parent or a de facto custodian as a regular member of the United States Armed Forces deployed outside the United States; or
 2. Any federal active duty of a parent or a de facto custodian as a member of a state National Guard or a Reserve component;

shall be temporary and shall revert back to the previous child visitation decree at the end of the deployment outside the United States or the federal active duty, as appropriate.
- (b) A parent or de facto custodian identified in paragraph (a) of this subsection may consent to a modification of a child visitation decree that continues past the end of the deployment outside the United States or the federal active duty, as appropriate.
- (5) Under circumstances where the court finds, by clear and convincing evidence, it is in the best interest of the child, any relative, by blood or affinity, that was previously granted temporary custody pursuant to the provisions of KRS 620.090 may be granted reasonable noncustodial parental visitation rights by a Circuit Court or Family Court as an intervenor or by original action. Once the relative has been granted visitation pursuant to this subsection, those rights shall not be adversely affected by the termination of custodial or parental rights of an individual who has permanent custody of the child unless the court determines that termination of the visitation rights are in the best interests of the child. The action shall be brought in the county in which the temporary or permanent custody order was entered or where the child resides.

➔Section 4. KRS 403.340 is amended to read as follows:

- (1) As used in this section, "custody" means sole or joint custody, whether ordered by a court or agreed to by the parties.
- (2) No motion to modify a custody decree shall be made earlier than two (2) years after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe that:
 - (a) The child's present environment may endanger seriously his physical, mental, moral, or emotional health; or
 - (b) The custodian appointed under the prior decree has placed the child with a de facto custodian.
- (3) If a court of this state has jurisdiction pursuant to the Uniform Child Custody Jurisdiction Act, the court shall not modify a prior custody decree unless after hearing it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of entry of the prior decree, that a change has occurred in the circumstances of the child or his custodian, and that the modification is necessary to serve the best interests of the child. When determining if a change has occurred and whether a modification of custody is in the best interests of the child, the court shall consider the following:
 - (a) Whether the custodian agrees to the modification;
 - (b) Whether the child has been integrated into the family of the petitioner with consent of the custodian;
 - (c) The factors set forth in KRS 403.270(2) to determine the best interests of the child;
 - (d) Whether the child's present environment endangers seriously his physical, mental, moral, or emotional health;
 - (e) Whether the harm likely to be caused by a change of environment is outweighed by its advantages to him; and

- (f) Whether the custodian has placed the child with a de facto custodian.
 - (4) In determining whether a child's present environment may endanger seriously his physical, mental, moral, or emotional health, the court shall consider all relevant factors, including, but not limited to:
 - (a) The interaction and interrelationship of the child with his parent or parents, his de facto custodian, his siblings, and any other person who may significantly affect the child's best interests;
 - (b) The mental and physical health of all individuals involved;
 - (c) Repeated or substantial failure, without good cause as specified in KRS 403.240, of either parent to observe visitation, child support, or other provisions of the decree which affect the child, except that modification of custody orders shall not be made solely on the basis of failure to comply with visitation or child support provisions, or on the basis of which parent is more likely to allow visitation or pay child support;
 - (d) If domestic violence and abuse, as defined in KRS 403.720, is found by the court to exist, the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.
 - (5) (a) Except as provided in paragraph (b) of this subsection, any court-ordered modification of a child custody decree, based in whole or in part on:
 - 1. The active duty of a parent or a de facto custodian as a regular member of the United States Armed Forces deployed outside the United States; or
 - 2. Any federal active duty of a parent or a de facto custodian as a member of a state National Guard or a Reserve component;

shall be temporary and shall revert back to the previous child custody decree at the end of the deployment outside the United States or the federal active duty, as appropriate.

 - (b) A parent or de facto custodian identified in paragraph (a) of this subsection may consent to a modification of a child custody decree that continues past the end of the deployment outside the United States or the federal active duty, as appropriate.
- (6) ***Subject to Section 5 of this Act, if the court orders a modification of a child custody decree, there shall be a presumption, rebuttable by a preponderance of evidence, that it is in the best interest of the child for the parents to have joint custody and share equally in parenting time. If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian has with the child and is consistent with ensuring the child's welfare.***
- (7) Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

When determining or modifying a custody order pursuant to Section 1, 2, 4, or 6 of this Act, the court shall consider the safety and well-being of the parties and of the children. If a domestic violence order is being or has been entered against a party by another party or on behalf of a child at issue in the custody hearing, the presumption that joint custody and equally shared parenting time is in the best interest of the child shall not apply as to the party against whom the domestic violence order is being or has been entered. The court shall weigh all factors set out in subsection (2) of Section 1 of this Act in determining the best interest of the child.

➔Section 6. KRS 403.740 is amended to read as follows:

- (1) Following a hearing ordered under KRS 403.730, if a court finds by a preponderance of the evidence that domestic violence and abuse has occurred and may again occur, the court may issue a domestic violence order:
 - (a) Restraining the adverse party from:
 - 1. Committing further acts of domestic violence and abuse;
 - 2. Any unauthorized contact or communication with the petitioner or other person specified by the court;
 - 3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;

4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and
5. Disposing of or damaging any of the property of the parties;
- (b) Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, except that the court shall not order the petitioner to take any affirmative action;
- (c) Directing that either or both of the parties receive counseling services available in the community in domestic violence and abuse cases; and
- (d) Additionally, if applicable:
 1. Directing the adverse party to vacate a residence shared by the parties to the action;
 2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822, grant temporary custody, *subject to Section 5 of this Act*; and
 3. Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary child support.
- (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:
 - (a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;
 - (b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;
 - (c) Specifically describe in the order the locations or areas prohibited to the respondent; and
 - (d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.
- (3) When temporary child support is granted under this section, the court shall enter an order detailing how the child support is to be paid and collected. Child support ordered under this section may be enforced utilizing the same procedures as any other child support order.
- (4) A domestic violence order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.

Signed by Governor April 26, 2018.

CHAPTER 199

(HB 557)

AN ACT relating to economic development.

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

➔Section 1. KRS 56.440 is amended to read as follows:

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

- (1) "Commission" means the State Property and Buildings Commission;
- (2) "Real estate" includes lands together with improvements thereon and appurtenances thereto;
- (3) "Building" includes any structure or improvement upon real estate of a permanent nature and additionally includes any sites, structures, equipment, machinery, or devices for the purpose of establishing, developing, or furthering television or related services in aid of education or in aid of any other proper public functions, whether or not the same would otherwise be legally defined as buildings; but only (except for industrial

development projects) if used or to be used by the Commonwealth of Kentucky or one (1) of its departments or agencies (not including independent municipal corporations or political subdivisions);

- (4) "Building project" includes the acquisition of any real estate and the acquisition, construction, reconstruction, and structural maintenance of buildings, the installation of utility services, including roads and sewers, and the purchase and installation of equipment, facilities, and furnishings of a permanent nature for buildings; the purchase and installation initially of movable equipment, furnishings, and appurtenances necessary to make a building operable; and for television or related purposes as referred to in subsection (3) of this section, for use by the state government or one (1) of its departments or agencies, not including any independent municipal corporation or political subdivision, or any other capital outlay program authorized by any branch budget bill or other legislation;
- (5) "Industrial development project" means and includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of such real estate for conveyance to or lease to industrial entities to be used for manufacturing, processing, or assembling purposes, including surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries, and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities, off-site construction of utility extensions to the boundaries of such real estate, construction and installation of buildings, including buildings to be used for worker training and education, rail facilities, roads, sidewalks, curbs, and other improvements to such real estate necessary to its manufacturing, processing, or assembling use by industrial entities; provided that an industrial entity must have agreed with the commission, prior to the financing of an industrial development project, to develop, in conjunction with such industrial development project, manufacturing, processing, or assembling facilities satisfactory to the commission;
- (6) "Industrial entity" means any corporation, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, or assembling facility on the site of an industrial development project financed pursuant to this chapter;
- (7) "Incremental taxes" means, for any fiscal year of the Commonwealth, that amount of money which is equal to all tax revenues received by the Commonwealth, as taxing entity, during such fiscal year in respect of an industrial development project and improvements and equipment thereon and the products thereof, and activities carried out by the occupants and users of such industrial development project, minus an amount equal to all tax revenues received by the Commonwealth, as taxing entity, in respect of the site of the industrial development project and the same type of taxable properties and activities during the fiscal year immediately preceding the fiscal year during which construction of the improvements undertaken by an industrial entity as a result of the financing of such industrial development project commenced. Incremental taxes shall include such tax revenues as state corporate income taxes, state income taxes paid by employees of manufacturing, processing, and assembling facilities developed on the site of an industrial development project, state property taxes, state corporation license taxes, and state sales and use taxes, but shall not include any taxes levied specifically for educational purposes;
- (8) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state but which is not an independent municipal corporation or political subdivision;
- (9) "Cabinet" means the Finance and Administration Cabinet;
- (10) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite;
- (11) "Asbestos-containing material" means any material which contains more than one percent (1%) asbestos by weight;
- (12) "Friable material" means any material applied onto ceilings, walls, structural members, piping, ductwork, or any other part of the building structure which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure;
- (13) "Meeting" means all gatherings of every kind, including video teleconferences;
- (14) "Video teleconference" means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment;

- (15) "Writing" or "written" shall mean letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation;
- (16) "Branch budget" shall have the same meaning as in KRS 48.010;~~and~~
- (17) "Reverse auction" shall have the same meaning as in KRS 45A.070;
- (18) ***"Headquarters" means the principal office where the principal executives of the entity are located and from which other personnel, branches, affiliates, offices, or entities are controlled;***
- (19) ***"Nonretail service and technology project" means and includes the acquisition of any real estate and the construction, acquisition, equipping, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of that real estate for conveyance to or lease to nonretail service and technology entities to be used for call centers, centralized administrative or processing centers, telephone or Internet sales order or processing centers, distribution or fulfillment centers, data processing centers, research and development facilities, or other similar activities; and***
- (20) ***"Nonretail service and technology entity" means any corporation, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates operate call centers, centralized administrative or processing centers, telephone or Internet sales order or processing centers, distribution or fulfillment centers, data processing centers, and research and development facilities, or conduct other similar activities.***

➔Section 2. KRS 56.510 is amended to read as follows:

- (1) In carrying out the purposes of this chapter, and in providing for the expenditure of funds for the acquisition of real estate or for a building project for the state or for any state agency, the cabinet may find that the cost may be paid in whole or in part:
 - (a) Out of the funds appropriated specifically for capital outlay purposes;
 - (b) Out of funds directly appropriated to the involved state agency which may legally be available for the purpose;
 - (c) Out of funds derived or which may be derived by the issuance and sale of revenue bonds by the commission (but only for the purpose of acquiring property for use by the state government or one of its departments or agencies, but not including any independent municipal corporation or political subdivision); or
 - (d) By any one (1) or a combination of said methods of financing. Any such findings providing for the issuance and sale of bonds shall be submitted to the commission for final determination. When any funds appropriated to or standing to the credit of a particular state agency are to be used for a purpose of the character above contemplated, the head of the agency may direct that the funds be transferred to the credit of the Finance and Administration Cabinet and made available for expenditure by the Finance and Administration Cabinet for the agreed purpose. Industrial development, ***headquarters, or nonretail service and technology*** projects may be financed by the issuance of revenue bonds of the commission only at the request of the Cabinet for Economic Development, subject to the provisions of subsection (3) of this section.
- (2) In any case where the expenditures for the acquisition of real estate or for a building project for the state or any state agency are to be financed in whole or in part by the issuance or sale of revenue bonds, the commission may provide that the title to any real estate which may be so acquired shall not vest in the Commonwealth until the revenue bonds, together with interest thereon, have been paid in full. In such cases the commission may, by agreement or in a trust indenture securing the payment of such revenue bonds, provide that the title of such real estate may be vested in some other state agency, or in a trustee named in such indenture, until the revenue bonds, together with the interest thereon, have been paid in full. It shall be provided in any such financing:
 - (a) That upon the retirement and discharge of the bonds, notes, or other obligations issued by the commission at the direction of and on behalf of a state agency, title to the public project or public projects so acquired shall vest in the Commonwealth;
 - (b) That in the event of default with respect to such bonds, notes, or other obligations, the Commonwealth shall have the exclusive option to acquire the public project or public projects for the amount required to discharge such bonds, notes, or other obligations, and is provided a reasonable time to exercise such option;

- (c) That the issuance of such bonds, notes, or other obligations shall be directed by and approved by such state agency not more than sixty (60) days prior to the date of issue of such obligations; and
 - (d) That no bonds, notes, or other obligations shall be issued by the commission for and on behalf of such state agency except upon express direction of such state agency.
- (3) (a) In any case where the expenditures for the acquisition, installation and construction of an industrial development, **headquarters, or nonretail service and technology** project will be financed in whole or in part by the issuance or sale of revenue bonds, the commission may provide that the title to the industrial development, **headquarters, or nonretail service and technology** project which may be so acquired shall be conveyed to the ~~industrial~~ entity which will occupy and utilize the industrial development, **headquarters, or nonretail service and technology** project; provided, however, that such conveyance shall only be made if:
1. The subject ~~industrial~~ entity agrees in writing prior to the issuance of any revenue bonds to construct and acquire in connection with the industrial development, **headquarters, or nonretail service and technology** project ~~manufacturing, processing and assembling~~ facilities satisfactory to the commission;
 2. The commission makes a finding in writing, that, based upon diligent investigation, the aggregate incremental taxes to be received by the Commonwealth as a result of such ~~industrial development~~ project are reasonably expected, over the life of the revenue bond issue, to be at least equal to the principal amount of any revenue bonds issued to finance such ~~industrial development~~ project;
 3. The industrial development, **headquarters, or nonretail service and technology** project is separately approved in writing by the Governor;
 4. The industrial development, **headquarters, or nonretail service and technology** project is separately approved and authorized by the General Assembly; and
 5. Any revenue bond proceedings for the financing of an industrial development, **headquarters, or nonretail service and technology** project provide that in the event of any disposition by an ~~industrial~~ entity of any such ~~industrial development~~ project previously conveyed to such industrial, **headquarters, or nonretail service and technology** entity prior to the collection by the Commonwealth of incremental taxes in the amount specified in subparagraph 2. of this paragraph, the subject industrial, **headquarters, or nonretail service and technology** entity shall pay to the Commonwealth an amount equal to the difference between the aggregate incremental taxes collected by the Commonwealth to such date of disposition and the principal amount of such revenue bonds;
- (b) As an alternate to the initial conveyance of an industrial development, **headquarters, or nonretail service and technology** project to an ~~industrial~~ entity, such ~~industrial development~~ project may be leased to such ~~industrial~~ entity upon such terms as the commission and the Cabinet for Economic Development shall determine to be proper, and in such case, subject to the provisions of subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, provision may also be made for title to such ~~industrial development~~ project to be conveyed to the subject ~~industrial~~ entity at such time as the Commonwealth has collected incremental taxes in respect of the ~~industrial development~~ project in an amount equal to the principal amount of any revenue bonds issued to finance such industrial development, **headquarters, or nonretail service and technology** project;
- (c) It is hereby determined and declared as a legislative finding of fact that the provisions and requirements of paragraphs (a) and (b) of this subsection provide for the receipt by the Commonwealth of fair market value for any industrial development, **headquarters, or nonretail service and technology** project conveyed to an ~~industrial~~ entity pursuant to this subsection; and
- (d) The Cabinet for Economic Development is authorized and empowered to initiate industrial development, **headquarters, or nonretail service and technology** projects and to finance such projects pursuant to the provisions of this chapter. When revenue bonds are issued for the financing of any such ~~industrial development~~ project, the Cabinet for Economic Development is authorized and empowered to enter into financing agreements or lease agreements with the commission providing for the making of financing payments by the Cabinet for Economic Development from appropriations made to the Cabinet for Economic Development as, if and when received, for the amortization of revenue bonds so issued, provided that no such obligation shall be binding upon the Cabinet for Economic Development

for a period extending beyond the legislative biennium during which such obligation is incurred, but such obligation may be renewed during successive biennial periods by the Cabinet for Economic Development. The issuance of any revenue bonds, notes or other obligations for the financing of industrial development, **headquarters, or nonretail service and technology** projects shall be directed by and approved by the Cabinet for Economic Development not more than sixty (60) days prior to the date of the issue of such obligations, and no bonds, notes or other obligations shall be issued by the commission for and on behalf of the Cabinet for Economic Development, except upon such express direction and upon compliance with this subsection. Any portion of an industrial development, **headquarters, or nonretail service and technology** project may be financed by a city or county of the Commonwealth in the same manner as a financing by the commission under this section, KRS 56.513 and 56.514 or pursuant to the statutory authority of such city or county. In such event, the Cabinet for Economic Development may enter into similar financing agreements or lease agreements with such city or county in order to make proper provision for such financing.

- (4) The cabinet, in providing for the expenditure of funds for any of the purposes mentioned in this section, or the commission in providing for the issuance and sale of revenue bonds, shall have power to provide by agreement with the state agency affected, or by provision in the trust indenture securing the bonds, such terms and conditions as may be considered appropriate and reasonable so as to permit either the leasing to, and use by, any state agency of any building project or the conveyance or lease of any industrial, **headquarters, or nonretail service and technology** development project to any ~~industrial~~ entity, any such building project to be paid for by such state agency either:
- (a) From its own appropriation;
 - (b) By the issuance of revenue bonds; or
 - (c) By means of a proposal to pay a rental for the use of all or any part of any building proposed to be constructed and any such industrial, **headquarters, or nonretail service and technology** development project to be paid for by the Cabinet for Economic Development by the issuance of revenue bonds of the commission, subject to the provisions of subsection (3) of this section, and amortization of such revenue bonds by the Cabinet for Economic Development.

The cabinet or the commission, in making any such lease agreement or financing agreement, or in making provision in any trust indenture securing revenue bonds, is authorized and empowered to lease all or any part of the facility financed for such term and upon such conditions and for such considerations or enter into financing agreements with the Cabinet for Economic Development in respect of any industrial development, **headquarters, or nonretail service and technology** project as may appear to be in the public interest.

➔Section 3. KRS 65.7049 is amended to read as follows:

Any city or county may establish a development area pursuant to this section, KRS 65.7051, and 65.7053 to encourage investment and reinvestment in and development, use, and reuse of areas of the city or county under the following conditions:

- (1) The area shall be contiguous and shall be no more than three (3) square miles;
- (2) The establishment or expansion of the development area shall not cause the assessed value of taxable real property within all development areas and local development areas of the city or county establishing the development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the development areas and local development areas shall be valued as of the establishment date;
- (3) The governing body of the city or county shall determine that the development area either:
 - (a) Has two (2) or more of the following conditions:
 - 1. Substantial loss of residential, commercial, or industrial activity or use;
 - 2. Forty percent (40%) or more of the households are low-income households;
 - 3. More than fifty percent (50%) of residential, commercial, or industrial structures are deteriorating or deteriorated;
 - 4. Substantial abandonment of residential, commercial, or industrial structures;
 - 5. Substantial presence of environmentally contaminated land;

6. Inadequate public improvements or substantial deterioration in public infrastructure; or
 7. Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety, or general welfare due to the development area's present condition and use; or
- (b) The project *meets the requirements of KRS 65.7043(2)(a)(1)b.* ~~is a mixed-use development:~~
1. ~~Located in a university research park;~~
 2. ~~Located within three (3) miles of a military base that houses, deploys, or employs any combination of at least twenty five thousand (25,000) military personnel, their families, military retirees, or civilian employees; or~~
 3. ~~Which includes either or both significant public storm water and sanitary sewer facilities designed to comply with a community wide court decree mandating corrective action by the local government or an agency thereof; and~~
- (4) The governing body of the city or county shall find that all of the following are true for projects meeting the requirements of paragraph (a) of subsection (3) of this section:
- (a) That the development area is not reasonably expected to be developed without public assistance. This finding shall be supported by specific reasons and supporting facts, including a clear demonstration of the financial need for public assistance; and
 - (b) That the public benefits of the development area justify the public costs proposed. This finding shall be supported by specific data and figures demonstrating that the projected benefits outweigh the anticipated costs and shall take into account the positive and negative effects of investment in the development on existing businesses and residents within the community as a whole; and
 - (c)
 1. That the area immediately surrounding the development area has not been subject to growth and development through investment by private enterprise; or
 2. If the area immediately surrounding the development area has been subject to growth and development through investment by private enterprise, the identification of special circumstances within the development area that would prevent its development without public assistance.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context requires otherwise:*
- (a) *"Approved company" has the same meaning as in Section 11 of this Act;*
 - (b) *"Corporation" has the same meaning as in Section 11 of this Act;*
 - (c) *"Occupational upgrade training" has the same meaning as in Section 11 of this Act;*
 - (d) *"Qualified company" has the same meaning as in Section 11 of this Act;*
 - (e) *"Skills training investment credit" has the same meaning as in Section 11 of this Act;*
 - (f) *"Skills upgrade training" has the same meaning as in Section 11 of this Act.*
- (2) *For taxable years beginning on or after July 1, 2022, the corporation shall not accept applications for the skills training investment credits allowed by KRS 154.12-204 to 154.12-208.*
- (3) *The amount of skills training investment credit awarded by the corporation under KRS 154.12-204 to 154.12-208 shall be credited on the tax return of the approved company in the year the corporation's closeout of approved training costs were incurred. The skills training investment credits allowed shall only be used by the approved company that has been awarded the credits in accordance with KRS 154.12-204 to 154.12-208. The skills training investment credits shall be applied to the income tax imposed by KRS 141.020 or 141.040. The credit may also be applied to the limited liability entity tax imposed by KRS 141.0401, with the order of the credits as provided in KRS 141.0205. These credits shall be in addition to all other tax credits granted under the laws of the Commonwealth.*
- (4) *The skills training investment credit may be carried forward for three (3) successive fiscal years by the approved company if the amount allowable as credits exceeds the income tax liability of the approved*

company in the tax year during which the final closeout of the approved training costs were incurred. Any excess credits shall not be refundable or carried forward beyond the third fiscal year.

- (5) *A qualified company shall not be entitled to receive the grant-in-aid under section 14 of this Act or skills training investment credits if the qualified company requires the employee to reimburse the employer or otherwise pay for any costs or expenses incurred in connection with the occupational upgrade training or skills upgrade training.*
- (6) *To the extent that any expenditures of a qualified company constitute approved costs and are the basis for the skills upgrade or occupational upgrade training under Section 14 of this Act, these expenditures shall only be eligible as the basis for either grants-in-aid or skills training investment credits.*
- (7) *By October 1 of each year, the Department of Revenue shall certify to the corporation the amount of any skills training investment credits taken pursuant to Section 14 of this Act on tax returns filed during the fiscal year ending June 30 of that year.*
- (8) *The Department of Revenue may promulgate administrative regulations in accordance with KRS Chapter 13A to adopt forms and procedures for the reporting of the credit authorized in KRS 154.12-204 to 154.12-208.*
- (9) (a) *In order for the General Assembly to evaluate the fulfillment of the purposes of this section, the department shall submit the following information, related to each taxable year that a grant-in-aid under Section 14 of this Act or skills training investment credit is claimed on any income tax return filed:*
 1. *The cumulative amount of tax credits by taxable year claimed by entity type, including:*
 - a. *Person;*
 - b. *Corporation;*
 - c. *Limited liability company;*
 - d. *Partnership;*
 - e. *Limited partnership;*
 - f. *Sole proprietorship;*
 - g. *Holding company;*
 - h. *Joint stock company;*
 - i. *Professional services corporation; or*
 - j. *Any other legal entity through which business is conducted;*
 2. *The number of returns filed claiming a tax credit for each taxable year by entity type;*
 3. *In the case of a taxpayer other than a corporation, based on the mailing address of the return, the total amount of credits claimed by county;*
 4. *In the case of a taxpayer other than a corporation, based on ranges of adjusted gross income of no larger than five thousand dollars (\$5,000), the total amount of credit claimed for each adjusted gross income range by taxable year; and*
 5. *In the case of a corporation, based on ranges of net income no larger than fifty thousand dollars (\$50,000), the total amount of credit claimed for each net income range.*
- (b) *The report required by paragraph (a) of this subsection shall be submitted to the Interim Joint Committee on Appropriations and Revenue beginning no later than November 1, 2018, and no later than each November 1 thereafter, as long as the skills training investment credit is claimed on any return processed by the department.*

➔Section 5. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
- 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
- (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, *Section 14 of this Act*, 154.12-2088, and 154.27-080;
- (c) The qualified farming operation credit permitted by KRS 141.412;
- (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- (e) The health insurance credit permitted by KRS 141.062;
- (f) The tax paid to other states credit permitted by KRS 141.070;
- (g) The credit for hiring the unemployed permitted by KRS 141.065;
- (h) The recycling or composting equipment credit permitted by KRS 141.390;
- (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- (j) The coal incentive credit permitted under KRS 141.0405;
- (k) The research facilities credit permitted under KRS 141.395;
- (l) The employer High School Equivalency Diploma program incentive credit permitted under KRS 164.0062;
- (m) The voluntary environmental remediation credit permitted by KRS 141.418;
- (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- ~~(o) The environmental stewardship credit permitted by KRS 154.48-025;~~
- ~~(o)(p)~~ The clean coal incentive credit permitted by KRS 141.428;
- ~~(p)(q)~~ The ethanol credit permitted by KRS 141.4242;
- ~~(q)(r)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
- ~~(r)(s)~~ The energy efficiency credits permitted by KRS 141.436;
- ~~(s)(t)~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
- ~~(t)(u)~~ The Endow Kentucky credit permitted by KRS 141.438;
- ~~(u)(v)~~ The New Markets Development Program credit permitted by KRS 141.434;
- ~~(v)(w)~~ The food donation credit permitted by KRS 141.392;
- ~~(w)(x)~~ The distilled spirits credit permitted by KRS 141.389; and
- ~~(x)(y)~~ The angel investor credit permitted by KRS 141.396.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067; and
 - (e) The new home credit permitted by KRS 141.388.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The individual withholding tax credit permitted by KRS 141.350;

- (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - (d) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (e) The film industry tax credit allowed by KRS 141.383.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, **Section 14 of this Act**, 154.12-2088, and 154.27-080;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The coal incentive credit permitted under KRS 141.0405;
 - (k) The research facilities credit permitted under KRS 141.395;
 - (l) The employer High School Equivalency Diploma program incentive credit permitted under KRS 164.0062;
 - (m) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (n) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - ~~(o) The environmental stewardship credit permitted by KRS 154.48-025;~~
 - ~~(o)~~~~(p)~~ The clean coal incentive credit permitted by KRS 141.428;
 - ~~(p)~~~~(q)~~ The ethanol credit permitted by KRS 141.4242;
 - ~~(q)~~~~(r)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
 - ~~(r)~~~~(s)~~ The energy efficiency credits permitted by KRS 141.436;
 - ~~(s)~~~~(t)~~ The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - ~~(t)~~~~(u)~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
 - ~~(u)~~~~(v)~~ The railroad expansion credit permitted by KRS 141.386;
 - ~~(v)~~~~(w)~~ The Endow Kentucky credit permitted by KRS 141.438;
 - ~~(w)~~~~(x)~~ The New Markets Development Program credit permitted by KRS 141.434;
 - ~~(x)~~~~(y)~~ The food donation credit permitted by KRS 141.392; and
 - ~~(y)~~~~(z)~~ The distilled spirits credit permitted by KRS 141.389.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:

- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
- (c) The film industry tax credit allowed in KRS 141.383.

➔Section 6. KRS 148.546 is amended to read as follows:

- (1) An eligible company shall, at least thirty (30) days prior to incurring any expenditure for which recovery will be sought, file an application for tax incentives with the office. The application shall include:
 - (a) The name and address of the applicant;
 - (b) Verification that the applicant is a Kentucky-based company;
 - (c) The production script or a detailed synopsis of the script;
 - (d) The locations where the filming or production will occur;
 - (e) The anticipated date on which filming or production shall begin;
 - (f) The anticipated date on which the production will be completed;
 - (g) The total anticipated qualifying expenditures;
 - (h) The total anticipated qualifying payroll expenditures for resident and nonresident above-the-line crew by county;
 - (i) The total anticipated qualifying payroll expenditures for resident and nonresident below-the-line crew by county;
 - (j) The address of a Kentucky location at which records of the production will be kept;
 - (k) An affirmation that if not for the incentive offered under KRS 148.542 to 148.546, the eligible company would not film or produce the production in the Commonwealth; and
 - (l) Any other information the office may require.
- (2) The office shall notify the eligible company within thirty (30) days after receiving the application of its status.
- (3)
 - (a) Upon review of the application and any additional information submitted, the office shall present the application and its recommendation to the Tourism Development Finance Authority established by KRS 148.850 which may, by resolution, authorize the execution of a tax incentive agreement between the Tourism Development Finance Authority and the approved company.
 - (b)
 - 1. The total amount of tax credits authorized by the Tourism Development Finance Authority during fiscal year 2010-2011 shall not exceed five million dollars (\$5,000,000).
 - 2. The total amount of tax credits authorized by the Tourism Development Finance Authority during the fiscal year 2011-2012 shall not exceed seven million five hundred thousand dollars (\$7,500,000).
- (4) The tax incentive agreement shall include the following provisions:
 - (a) The duties and responsibilities of the parties;
 - (b) A detailed description of the motion picture or entertainment production for which incentives are requested;
 - (c) The anticipated qualifying expenditures and qualifying payroll expenditures for resident and nonresident above-the-line and below-the-line crews by county;
 - (d) The minimum combined total of qualifying expenditures and qualifying payroll expenditures necessary for the approved company to qualify for incentives;
 - (e) That the approved company shall have no more than two (2) years from the date the tax incentive agreement is executed to start the motion picture or entertainment production;
 - (f) That the approved company shall have no more than four (4) years from the execution of the tax incentive agreement to complete the motion picture or entertainment production;
 - (g) That the motion picture or entertainment production shall not include obscene materials and shall not negatively impact the economy or the tourism industry of the Commonwealth;

- (h) That the execution of the agreement is not a guarantee of tax incentives and that actual receipt of the incentives shall be contingent upon the approved company meeting the requirements established by the tax incentive agreement;
 - (i) That the approved company shall submit to the office within one hundred eighty (180) days of the completion of the motion picture or entertainment production a detailed cost report of the qualifying expenditures, qualifying payroll expenditures, and final script;
 - (j) That the approved company shall provide the office with documentation that the approved company has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures for which an incentive under KRS 141.383 and 148.544 is sought;
 - (k) That, if the office determines that the approved company has failed to comply with any of its obligations under the tax incentive agreement:
 - 1. The office may deny the incentives available to the approved company;
 - 2. Both the office and the cabinet may pursue any remedy provided under the tax incentive agreement;
 - 3. The office may terminate the tax incentive agreement; and
 - 4. Both the office and the cabinet may pursue any other remedy at law to which it may be entitled;
 - (l) That the office shall monitor the tax incentive agreement;
 - (m) That the approved company shall provide to the office and the cabinet all information necessary to monitor the tax incentive agreement;
 - (n) That the office may share information with the cabinet or any other entity the office determines is necessary for the purposes of monitoring and enforcing the terms of the tax incentive agreement;
 - (o) That the motion picture or entertainment production shall contain an acknowledgment that the motion picture or entertainment production was produced or filmed in the Commonwealth of Kentucky;
 - (p) That the approved company shall include screen credits in its final production that:
 - 1. Indicate that the approved company received tax incentives from the Commonwealth of Kentucky; and
 - 2. Display the "Unbridled Spirit" logo;
 - (q) Terms of default;
 - (r) The method and procedures by which the approved company shall request and receive the incentive provided under KRS 141.383 and 148.544;
 - (s) That the approved company may be required to pay an administrative fee as authorized under subsection (5) of this section; and
 - (t) Any other provisions deemed necessary or appropriate by the parties to the tax incentive agreement.
- (5) The office may require the approved company to pay an administrative fee, the amount of which shall be established by administrative regulation promulgated in accordance with KRS Chapter 13A. The administrative fee shall not exceed one-half of one percent (0.5%) of the estimated amount of tax incentive sought or five hundred dollars (\$500), whichever is greater.
 - (6) Prior to commencement of activity as provided in a tax incentive agreement, the tax incentive agreement shall be submitted to the Government Contract Review Committee established by KRS 45A.705 for review, as provided in KRS 45A.695, 45A.705, and 45A.725.
 - (7) The office shall notify the cabinet upon approval of an approved company. The notification shall include the name of the approved company, the name of the motion picture or entertainment production, the estimated amount of qualifying expenditures, the estimated date on which the approved company will complete filming or production, and any other information required by the cabinet.
 - (8) Within one hundred eighty days (180) days of completion of the motion picture or entertainment production, the approved company shall submit to the office a detailed cost report of:
 - (a) Qualifying expenditures;

- (b) Qualifying payroll expenditures for resident and nonresident above-the-line crew by county;
 - (c) Qualifying payroll expenditures for resident and nonresident below-the-line crew by county; and
 - (d) The final script.
- (9) (a) The office, together with the secretary, shall review all information submitted for accuracy and shall confirm that all relevant provisions of the tax incentive agreement have been met.
- (b) Upon confirmation that all requirements of the tax incentive agreement have been met, the office, and the secretary shall review the final script, and if they determine that the motion picture or entertainment production does not:
- 1. Contain visual or implied scenes that are obscene; or
 - 2. Negatively impact the economy or the tourism industry of the Commonwealth;
- the office shall forward the detailed cost report to the cabinet for calculation of the refundable credit.
- (10) The cabinet shall verify that the approved company withheld the proper amount of income tax on qualifying payroll expenditures, and the cabinet shall notify the office of the total amount of refundable credit available on qualifying expenditures and qualifying payroll expenditures.
- (11) On or before October 1, 2010, and on or before each October 1 thereafter, for the immediately preceding fiscal year, the office shall report to the Tourism Development Finance Authority:
- (a) The number of tax incentive agreements that have been executed;
 - (b) The estimated amount of tax incentives that have been requested under KRS 141.383 and 148.542 to 148.546; and
 - (c) The amount of tax incentives approved under KRS 139.538, 141.383, and 148.542 to 148.546.
- (12) (a) By November 1 of each year, the authority shall *prepare*~~file~~ an annual report~~with the Governor and the Legislative Research Commission. The report shall be submitted in cooperation with the Cabinet for Economic Development and included in the single annual report required in KRS 154.12-2035.~~ The report shall *be posted*~~also be available~~ on the Tourism, Arts and Heritage Cabinet's Web site.
- (b) The report shall include information for all motion picture or entertainment production projects approved.
- (c) The report shall include the following information:
- 1. For each approved motion picture or entertainment production project:
 - a. The name of the approved company and a brief description of the project;
 - b. The amount of approved costs included in the agreement; and
 - c. The total amount recovered under the tax incentive agreement;
 - 2. The number of applications for projects submitted during the prior fiscal year;
 - 3. The number of projects finally approved during the prior fiscal year; and
 - 4. The total dollar amount approved for recovery for all projects approved during the prior fiscal year, and cumulatively under KRS 141.383 and 148.542 to 148.546 since its inception, by year of approval.
- (d) The information required to be reported under this section shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.

➔Section 7. KRS 148.8591 is amended to read as follows:

- (1) By November 1 of each year, the authority shall *prepare*~~file~~ an annual report~~with the Governor and the Legislative Research Commission. The report shall be submitted in cooperation with the Cabinet for Economic Development and included in the single annual report required in KRS 154.12-2035. The report shall also be available on~~ the Tourism, Arts and Heritage Cabinet's Web site.
- (2) The report shall include information for all projects approved after June 26, 2009.

- (3) The report shall include the following information:
- (a) For each approved project:
 - 1. The name of the approved company and a brief description of the project;
 - 2. The amount of approved costs included in the agreement;
 - 3. The maximum amount of incentives the approved company may recover over the term of the agreement;
 - 4. The term of the agreement; and
 - 5. The total amount recovered under the agreement, reported for both the prior fiscal year and cumulatively;
 - (b) The number of applications for projects submitted during the prior fiscal year;
 - (c) The number of projects finally approved during the prior fiscal year; and
 - (d) The total dollar amount approved for recovery for all projects approved during the prior fiscal year, and cumulatively under the Tourism Development Act since its inception, by year of approval.
- (4) The information required to be reported under this section shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provision of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.

➔Section 8. KRS 154.10-050 is amended to read as follows:

- (1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.
- (2) The board shall set the salary of the secretary and up to two (2) additional executive officers of the cabinet as determined by the board, which shall be exempt from state employee salary limitations as set forth in KRS 64.640. No executive officer of the cabinet shall be paid a salary greater than that of the secretary.
- (3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; ~~submit the strategic plan for economic development to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the board in accordance with the provisions of KRS 154.10-140;~~ carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.
- (4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.
- (5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.
- (6) The secretary shall give highest priority consideration in marketing, targeting, and recruiting new businesses, in expanding existing businesses, and in recommending state economic development loans, grants, and incentive programs administered by the authority, to Kentucky counties which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment within the Education and Workforce Development Cabinet.

➔SECTION 9. A NEW SECTION OF KRS 154.12-2084 TO 154.12-2089 IS CREATED TO READ AS FOLLOWS:

The Bluegrass State Skills Corporation shall not accept applications for skills training investment credits described in KRS 154.12-2084 to 154.12-2089 after the effective date of this Act. All outstanding projects with preliminary or final approval under KRS 154.12-2084 to 154.12-2089 as of the effective date of this Act shall continue to be governed by those provisions.

➔Section 10. KRS 154.12-100 is amended to read as follows:

- (1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.
- (2) The economic development bond program shall be administered by the secretary of the Cabinet for Economic Development. The board shall promulgate administrative regulations in accordance with KRS Chapter 13A for project selection criteria. The project selection criteria shall include, but not be limited to, the following:
 - (a) Potential job creation or job retention;
 - (b) Degree of public or private and local involvement;
 - (c) Degree and conditions of project payback; and
 - (d) Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts, and any other form of child care assistance deemed applicable by the secretary.
- (3) Prior to submission of an economic development bond project to the Capital Projects and Bond Oversight Committee, the secretary of the Cabinet for Economic Development shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown, and overall project description. This shall be submitted by the secretary to the Capital Projects and Bond Oversight Committee. Subsequently, the secretary of the Cabinet for Economic Development shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.
- (4) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in a branch budget bill. Airport construction and renovation projects shall be eligible for funding under this section. The secretary of the Cabinet for Economic Development shall consult with the secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the board, and the State Property and Buildings Commission, under the provisions of KRS 56.450.
- (5) Following the approval by the board, the project shall be presented by the secretary of the Cabinet for Economic Development or his designee with supporting documentation for review and approval at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810 and at the next regularly scheduled meeting of the State Property and Buildings Commission.
- (6) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.
- (7) **By November 1 of each year, the**~~The~~ Cabinet for Economic Development shall **prepare and post**~~submit~~ an annual report to the **cabinet's Web site**~~Capital Projects and Bond Oversight Committee, and to the Governor and Legislative Research Commission~~ as required in KRS 154.12-2035, showing the economic development bonds issued during the previous fiscal year,~~and~~ the amounts paid back, and the balance still owing with respect to loans made by the Cabinet for Economic Development with proceeds of economic development bonds during the previous five (5) fiscal years.

➔Section 11. KRS 154.12-204 is amended to read as follows:

As used in KRS 154.12-205 to 154.12-208, unless the context requires otherwise:

- (1) "Applicant" means an educational institution, business, or industry that has made application for a grant-in-aid **or skills training investment credit** as authorized by KRS 154.12-205 to 154.12-208;
- (2) **"Approved company" means any qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program for the benefit of one (1) or more of its employees, which is approved by the corporation to receive grant-in-aid or skills training investment credits as provided by KRS 154.12-205 to 154.12-208;**
- (3) **"Approved costs" means:**
 - (a) **Fees or salaries required to be paid to instructors who are employees of the approved company, instructors who are full-time, part-time, or adjunct instructors with an educational institution, and**

instructors who are consultants on contract with an approved company in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company;

- (b) The cost of supplies and materials used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;*
- (c) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and*
- (d) All other costs of a nature comparable to those described in this subsection;*

(4) "Board" means the board of directors of the Bluegrass State Skills Corporation;

~~[(3) "Business and industry" means a private corporation, limited liability company, limited partnership, institution, firm, person, group, or other entity or association of the same, concerned with commerce, trade, manufacturing, or the provision of services within the Commonwealth, or a public or nonprofit hospital licensed by the Commonwealth, or any company whose primary purpose is the sale of goods at retail, if specific funds for grants in aid to retail business and industry are appropriated by the General Assembly;]~~

~~(5)[(4)]~~ "Corporation" means the Bluegrass State Skills Corporation, or BSSC;

~~(6)[(5)]~~ "Educational institution" means a public or nonpublic secondary or postsecondary institution or an independent provider within the Commonwealth authorized by law to provide a program of skills training or education *beyond the secondary school level or to adult persons without a high school diploma or its equivalent;*

(7) "Employee" means any person:

- (a) Who is currently a permanent full-time employee of the qualified company;*
- (b) Who is a resident of Kentucky, as that term is defined in KRS 141.010; and*
- (c) Who is paid the minimum base hourly wage plus employee benefits equal to or greater than fifteen percent (15%) of the minimum base hourly wage. If the qualified company does not provide employee benefits equal to at least fifteen percent (15%) of the minimum base hourly wage, the qualified company may still qualify if it provides the full-time employee total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the minimum base hourly wage through increased hourly wages combined with at least one (1) company-paid employee benefit;*

~~(8)[(6)]~~ "Grant-in-aid" means funding that is provided to an educational institution and *qualified companies*~~business and industry~~ by the BSSC for the development or expansion of a program as provided in this chapter;

(9) "Minimum base hourly wage" means the minimum wage amount paid to an employee by a qualified company, which shall not be less than one hundred fifty percent (150%) of the federal minimum wage;

(10) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;

~~(11)[(7)]~~ "Program" or "program of skills training or education consistent with employment needs" means a coordinated course of instruction which is designed to prepare individuals for employment in a specific trade, occupation, or profession. Such instruction may include:

- (a) Classroom instruction;
- (b) Classroom-related field, shop, factory, office, or laboratory work; and
- (c) Basic skills, entry level training, job upgrading, retraining, and advance training;~~[-]~~

(12) (a) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional services corporation or any other legal entity through which business is conducted that has been or is planning to be actively engaged in one (1) or more of the following activities within the Commonwealth:

- 1. Manufacturing;
- 2. Agribusiness;

3. *Nonretail service or technology;*
 4. *National or regional headquarter operations, regardless of the underlying business activity of the company; or*
 5. *Health care.*
- (b) *"Qualified company" does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, mining, coal or mineral processing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, accommodation and food services, or public administration services.*
- (c) *Other qualified companies may be included if specific funds for grants-in-aid to retail business and industry are appropriated by the General Assembly;*
- (13) *"Skills upgrade training" means employee training sponsored by a qualified company that is designed to provide the employee with new skills necessary to enhance productivity, improve performance, or retain employment, including but not limited to technical and interpersonal skills, and training that is designed to enhance computer skills, communication skills, problem solving, reading, writing, or math skills of employees who are unable to function effectively on the job due to deficiencies in these areas, are unable to advance on the job, or who risk displacement because their skill deficiencies inhibit their training potential for new technology;*
- (14) *"Skills training investment credit" means the credit against Kentucky income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, as provided in this subchapter; and*
- (15)(8) *"Technical assistance" means professional and any other assistance provided by **qualified companies** {business and industry} to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program as defined herein.*

➔Section 12. KRS 154.12-205 is amended to read as follows:

- (1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the Cabinet for Economic Development.
- (2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of **qualified companies** {business and industry}.
- (3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including the following six (6) ex officio members: the commissioner of the Department of Workforce Investment or his or her designee, the secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the president of the Council on Postsecondary Education, the secretary of the Education and Workforce Development Cabinet, and the president of the Kentucky Community and Technical College System. The twelve (12) other members shall be appointed by the Governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the twelve (12) members shall be appointed to represent labor organizations. Each member appointed by the Governor shall serve for a term of four (4) years, except that in making the initial appointments, the Governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and three (3) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.
- (4) In the event of a vacancy, the Governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.
- (5) Any member may be removed from his appointment by the Governor for cause.
- (6) The Governor shall designate a member of the board as its chairman.
- (7) Members of the board of directors of the corporation, except for ex officio members, shall be entitled to compensation for their services in the amount of one hundred dollars (\$100) for each regular or special called meeting of the corporation, and all members shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

- (8) The board of directors of the corporation shall annually elect a vice chairman, a secretary, and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.
- (9) ~~The [secretary of the] Cabinet for Economic Development shall~~ **provide staff and support services to the corporation** ~~[hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation]~~ and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.
- (10) All officers and employees of the corporation having access to its funding shall give bond to the corporation, at its expense, in the amount and with the surety as the board may prescribe.

➔Section 13. KRS 154.12-206 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but not limited to the following:

- (1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its function and duties;
- (2) To adopt an official seal;
- (3) To sue and be sued in its own name;
- (4) To make contracts and execute all instruments necessary or convenient for the conduct of its business;
- (5) To make, execute, and effectuate all agreements with any federal or state agency or any person, corporation, association, partnership, or other organization or entity necessary to accomplish the purposes of this chapter;
- (6) To procure sufficient insurance coverage against any losses in connection with its property;
- (7) To accept any and all donations, grants, bequests, and devices, conditional or otherwise, of money, property, service, or other things of value which may be received from the United States, or any agency thereof, any governmental agency, an institution, person, firm, or corporation, public and private, to be held, used, or applied solely for the purposes specified in KRS 154.12-204 to 154.12-208. Receipt of each donation or grant shall be detailed in the annual report of the corporation. Such reports shall include the identity of the donor and the nature of the transaction;
- (8) To collect and disseminate to interested individuals, in cooperation with and through any agencies of federal, state, and municipal government, information concerning areas of present and projected employment need, programs of skills training and education consistent therewith, and any other relevant information;
- (9) To provide grants-in-aid to educational institutions and **approved companies** ~~[business and industry]~~ to encourage and facilitate the formation of comprehensive cooperative relationships between the public and private sectors which secure for such institutions the information, technical assistance, and financial support necessary for the development and significant expansion of programs of skills training and education consistent with employment need;
- (10) To prepare, publish, and distribute, with or without charge as the corporation may determine, such technical studies, reports, bulletins, and other materials as it deems appropriate;
- (11) To organize, conduct, or sponsor special institutes, conferences, demonstrations, and studies to effectuate the purposes of KRS 154.12-204 to 154.12-208; and
- (12) To certify or decertify skills training providers, both public and private, including their teachers and instructors as approved providers of skills training services for a grant-in-aid.

➔Section 14. KRS 154.12-207 is amended to read as follows:

- (1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions, and **qualified companies** ~~[business and industry]~~, not in excess of two hundred thousand dollars (\$200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.
- (2) **The corporation may, in accordance with KRS 154.12-204 to 154.12-208, award a skills training investment credit to an approved company. The amount of the skills training investment credit awarded by the corporation shall be an amount equal to fifty percent (50%) of the amount of approved costs incurred by the**

approved company in connection with its program of occupational upgrade training or skills upgrade training, the credit amount not to exceed five hundred dollars (\$500) per employee and, in the aggregate, not to exceed one hundred thousand dollars (\$100,000) for each approved company per biennium. The corporation shall only approve one (1) application per biennium for each approved company. ~~[To qualify for a grant-in-aid in which an educational institution will provide training, an educational institution and a business or industry shall submit a joint application to the corporation that contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities, and materials; and with respect to educational institutions only, a statement of the technical assistance and financial support for the program received or pledged from business and industry. To qualify for a grant-in-aid in which a provider other than an educational institution will provide training, the business or industry may independently submit a proposal to the corporation containing the same information as set forth in this subsection.]~~

- (3) (a) *To apply for a grant-in-aid or a skills training investment credit, a qualified company shall submit an application to the Bluegrass State Skills Corporation before commencing its program of skills upgrade or occupational upgrade training. Each application shall contain information the corporation requires including, but not limited to:*
 1. *A proposal for a program of skills upgrade training, occupational upgrade training, and education;*
 2. *A description of each component of the proposed training program and the number of employee training hours requested;*
 3. *A statement of the total anticipated costs and expenses of the program, including a breakdown of the costs associated with equipment, personnel, facilities, and materials; and*
 4. *With respect to educational institutions only, a statement of the technical assistance and financial support for the program received or pledged from a qualified company.*
 - (b) *To qualify for a grant-in-aid or a skills training investment credit in which an educational institution will provide training, an educational institution and a qualified company shall submit a joint application to the corporation. To qualify for a grant-in-aid or a skills training investment credit in which a provider other than an educational institution will provide training, the qualified company may independently submit a proposal to the corporation containing the same information as set forth in this subsection.*
- (4) Approval of the grant-in-aid *and skills training investment credit* application by the board shall be based upon the following criteria:
- (a) The program must be within the scope of KRS 154.12-204 to 154.12-208;
 - (b) Participants in the program must *qualify as an employee as defined by Section 11 of this Act* ~~[be limited to a Kentucky resident, as the term is defined in KRS 141.010];~~
 - (c) The program must involve an area of skills *upgrade training, occupational upgrade training,* and education which is needed by *a qualified company* ~~[business and industry]~~ and for which a shortage of qualified individuals exists within the Commonwealth;
 - (d) The grant-in-aid *and skills training investment credit* must be essential to the success of the program as the resources of the educational institution are inadequate to attract the technical assistance and financial support necessary from *a qualified company* ~~[business and industry];~~
 - (e) The educational institution must have obtained a firm commitment from *a qualified company* ~~[business and industry]~~ for the information, technical assistance, and financial support which, together with the grant-in-aid *or skills investment credit*, the resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from *an approved company* ~~[business and industry]~~ shall be equal to or greater than the amount of the requested grant-in-aid *or skills training investment credit; and*
 - (f) The educational institution must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation ~~[; and]~~
 - ~~[(g) Ninety percent (90%) of the participants receive a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of~~

~~the applicable base hourly wage, if the business and industry is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment within the Education and Workforce Development Cabinet].~~

- (5) *After a review of applications for grant-in-aid and skills training investment credits, the corporation may designate the qualified company as an approved company and approve the maximum amount of grants and skills training investment credits the approved company is eligible to receive. The maximum amount of skills training investment credits approved for all qualified companies by the corporation for fiscal year 1998-1999 and fiscal year 1999-2000 shall not exceed one million dollars (\$1,000,000) and shall not exceed two million five hundred thousand dollars (\$2,500,000) for each fiscal year thereafter. Skills training investment credits that remain unallocated by the corporation at the end of its fiscal year shall lapse and shall not be carried forward to a new fiscal year.*
- (6) *The approved company shall complete all programs of skills upgrade training or occupational upgrade training within one (1) year from the date of approval by the corporation and shall certify the completion of these programs to the corporation. Once they are completed and certified and all required documentation is provided and received by the corporation, the corporation shall disburse the grant funds or notify the approved company of the final authorized skills training investment credit.*

➔Section 15. KRS 154.12-208 is amended to read as follows:

By November 1 of each year, the corporation shall ~~annually~~ ***prepare an*** ~~submit a complete and detailed~~ ***annual*** report of its activities ***and make it available on the Cabinet for Economic Development Web page*** ~~by November 1 of each year to the Legislative Research Commission and to the Governor,~~ as required in KRS 154.12-2035. The annual report shall include, but not be limited to, descriptions of all programs funded, an evaluation of the performance of each program, a summary of expenditures, and a detailed description of the participants.

➔Section 16. KRS 154.12-278 is amended to read as follows:

- (1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in KRS 164.6011.
- (2) The Office of Entrepreneurship shall:
 - (a) Implement the Kentucky Innovation and Commercialization Center Program as set forth in KRS 154.12-300 to 154.12-310;
 - (b) Monitor the return on investments and effectiveness of the Kentucky Innovation Act initiatives as set forth in the Strategic Plan for the New Economy and ***prepare an annual*** report ~~annually~~ by November 1 ***of each year. The report shall be available on*** ~~to~~ ***the Cabinet for Economic Development Web page as*** ~~Governor and the Legislative Research Commission, as~~ required ***by*** ~~in~~ KRS 154.12-2035;
 - (c) Oversee the modernization initiative in KRS 154.12-274;
 - (d) Assist the cabinet in the recruitment of research and development companies;
 - (e) Assist the cabinet in the attraction of high-technology research and development centers;
 - (f) Support growth and creation of knowledge-based, innovative companies;
 - (g) Build the infrastructure for innovative businesses and promote networks of technology-driven clusters and research intensive industries;
 - (h) Administer the high-tech construction pool and the high-tech investment pool;
 - (i) Recommend projects to the Kentucky Economic Development Finance Authority for funding through the high-tech construction pool and high-tech investment pool; and
 - (j) Review and approve the annual plan which details the annual allocation of funds from the Science and Technology Funding Program, prior to the Council on Postsecondary Education executing a contract with the science and technology organization to administer science and technology funding programs. As used in this paragraph, the Science and Technology Funding Program means the Kentucky Enterprise Fund Program, the Rural Innovation Program, the Kentucky Commercialization Program, The Regional Technology Corporations/Innovation and Commercialization Center Satellites, and the Experimental Program to Stimulate Competitive Research/Kentucky Science and Engineering Foundation.

- (3) The high-tech construction pool shall be used for projects with a special emphasis on the creation of high-technology jobs and knowledge-based companies. The executive director, in administering the high-tech construction pool, shall recommend distribution of funds and projects to the Kentucky Economic Development Finance Authority for its approval. The executive director shall recommend any designated amount of pool funds to be set aside for any match requirements. Any funds used for matching purposes may include public and private funds.
- (4) The high-tech investment pool shall be used to build and promote technology-driven industries and research-intensive industries, as well as their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky. The executive director, in administering the high-tech investment pool, shall be authorized to recommend funds to be used to support loans and grants, or to secure an equity or related position.
- (5) The Kentucky Economic Development Finance Authority shall assure in their approval of funding of projects that the highest priority is given to knowledge-based companies in fulfillment of the purposes and intentions of the purposes of this section.

➔Section 17. KRS 154.12-310 is amended to read as follows:

- (1) The Kentucky Innovation and Commercialization Centers are private-public partnerships, operating as a cohesive statewide infrastructure to support the implementation of key Kentucky Innovation Act initiatives.
- (2) The organization of the ICCs shall include a central statewide headquarters *and up to twelve (12) affiliate centers.* ~~[, six (6) affiliate centers, and a number of satellite offices.]~~
 - (a) The central headquarters has primary responsibility for the following:
 - 1. Managing and administering the ICC Program;
 - 2. Establishing uniform program application, protocol, and operating guidelines when appropriate;
 - 3. Supporting the protocol by creating and funding centralized services to be distributed throughout the network; and
 - 4. Identifying those issues, opportunities, and challenges that have statewide implications.
 - (b) The regional affiliates are responsible for fulfilling the duties as set forth in KRS 154.12-305 relating to the implementation of the region's innovation strategic plan and supporting the implementation of the Kentucky Innovation Act initiatives in the region or subregion;
 - (c) The satellites are responsible for generating technology business development in their assigned geographic area, acting as a bridge between individuals and businesses needing critical early state concept and development work and the affiliate centers that can provide this support.

The affiliates and satellites provide a valuable assurance for equal access to the Kentucky Innovation Act initiatives and funding, and provide an opportunity for full participation in rural and remote, as well as metropolitan, areas of the state.

- (3) The commissioner shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 154.12-300 to 154.12-310.
- (4) The commissioner may, in effectuating the provisions of KRS 154.12-300 to 154.12-310, contract with a science and technology organization as defined in KRS 164.6011 to administer and manage the ICC Program.

➔Section 18. KRS 154.12-2035 is amended to read as follows:

- (1) The cabinet shall maintain a searchable electronic database on its Web site containing information on the cost and status of the programs listed in subsection (3)(a) of this section. The database shall include all projects approved at any time in the last five (5) years and shall include for each, where applicable, the following information:
 - (a) The name of the program, the recipient or participant, the type of project, and its location by county;
 - (b) Total and approved costs of the project or investment, and the amount of incentives or other benefits authorized;
 - (c) For the Kentucky Business Investment Program and the Kentucky Enterprise Initiative Act, the amount of incentives or other benefits actually recovered as self-reported by the recipient;

- (d) The number of new jobs estimated and, for the Kentucky Business Investment Program~~and the Kentucky Enterprise Initiative Act~~, actually created, along with wage information for those jobs;
 - (e) Project status and the date and nature of the most recent activity; and
 - (f) Any other comparable data or information necessary to achieve transparency and accountability for the specified programs.
- (2) In addition to the electronic database required in subsection (1) of this section, the cabinet shall *prepare and submit a single* annual report on the programs listed in subsection (3)~~(b)~~ of this section *and make it available on the Cabinet for Economic Development Web site*~~to the Governor and the Legislative Research Commission~~ by November 1 of each year. The report shall include all projects approved in the preceding fiscal year and shall provide for these projects the information specified in subsection (1) of this section plus aggregate data for each program, summary evaluations of program activity and effectiveness, and anything required by statute to be reported for any particular program. The report shall also list all projects that were approved in prior years but active at any time in the preceding fiscal year, although for these projects the report need not provide further data.
- (3) The following programs shall be subject to the reporting requirements of this section:
- (a) The electronic database required in subsection (1) of this section shall include the Bluegrass State Skills Corporation, grants-in-aid and skills training investment credit; Kentucky Business Investment Program; Kentucky Enterprise Initiative Act; Office of Entrepreneurship programs; Incentives for Energy Independence Act; Kentucky Economic Development Finance Authority small business and direct loan programs; ~~Kentucky Environmental Stewardship Act;~~ Kentucky Industrial Revitalization Act; Kentucky Reinvestment Act; *Kentucky Small Business Tax Credit*~~small business investment credit~~; economic development bonds; Kentucky Industrial Development Act; Kentucky Jobs Development Act; Kentucky Jobs Retention Act;~~and~~ the Kentucky Rural Economic Development Act; and
 - (b) The~~single~~ annual report required by subsection (2) of this section shall include all programs listed in paragraph (a) of this subsection plus the Kentucky Investment Fund Act, ~~the Tourism Development Act, film production industry incentives,~~ and tax increment financing, state participation projects.
- (4) The cabinet shall coordinate with~~the Tourism, Arts and Heritage Cabinet and~~ any other agency necessary to supply the information required by this section.

➔Section 19. KRS 154.20-033 is amended to read as follows:

- (1) The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Subchapters 20 to 28,~~and~~ 30 to 34, *and 60* of this chapter, including but not limited to:
 - (a) Employing fiscal consultants, attorneys, appraisers, and other agents on behalf of the authority whom the authority deems necessary or convenient for the preparation and administration of agreements and documents necessary or incident to any project. The fees for the services provided by persons employed on behalf of the authority shall be paid by the beneficiary of a loan, grant, assessment, incentive, inducement, or tax credit under this chapter directly to the person providing consultation, advisory, legal or other services; and
 - (b) Imposing and collecting fees and charges in connection with any transaction and providing for reasonable penalties for delinquent payment of fees and charges.
- (2) A director or officer of the authority shall not be subject to any personal liability or accountability by reason of the execution of any obligation duly authorized by the authority.
- (3) The authority may accept and expend moneys which may be appropriated from time to time by the General Assembly, or moneys which may be received from any source, including income from the authority's operations for effectuating its purpose, including without limitation the payment of the expenses of administration and operation.

➔Section 20. KRS 154.20-150 is amended to read as follows:

- (1) On or before October 1, 1992, and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide

additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include but is not limited to:

- (a) The current status of each project under consideration by the authority, the proposed cost of a project, for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and
 - (b) The current status of each project, along with an updated cost for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.
- (2) On or before November 1 of each year, the authority shall ~~prepare an annual~~~~submit an overview~~ report **and make it available on the Cabinet for Economic Development Web site**~~to the Legislative Research Commission and the Governor as required in~~ **as required by KRS 154.12-2035.**~~}] The report shall include information about~~~~on~~ the success or failure of each completed project, in order to determine the effectiveness of the Kentucky Economic Development Finance Authority.
 - (3) In addition to the project status report, all construction, reconstruction, or alteration, financed or facilitated in whole or in part by the authority shall be reported to the Office of Employment and Training within the Department of Workforce Investment in the Education and Workforce Development Cabinet and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This construction activity report shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

➔Section 21. KRS 154.20-170 is amended to read as follows:

- (1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.1-010~~in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120,~~ and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(8), shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.
- (2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment in the Education and Workforce Development Cabinet.

➔Section 22. KRS 154.20-230 is amended to read as follows:

As used in KRS 154.20-230 to 154.20-240:

- (1) "Application" means a document submitted by small businesses and investors, on a form supplied by the authority, for the purpose of requesting certification to participate in the program and to apply for a credit;
- (2) "Authority" means the Kentucky Economic Development Finance Authority;
- (3) "Commonwealth" means the Commonwealth of Kentucky;
- (4) "Credit" means the nonrefundable angel investor tax credit established by KRS 141.396 and awarded by the authority pursuant to KRS 154.20-236;
- (5) "Department" means the Department of Revenue;
- (6) "Enhanced incentive counties" has the same meaning as in KRS 154.32-010;
- (7) "Entity" means any corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

- (8) "Fee" means a nonrefundable application fee in an amount set by the authority, to be collected by the authority to offset the cost of administering KRS 154.20-230 to 154.20-240;
- (9) "Full-time employee" means a person that is required to work a minimum of thirty-five (35) hours per week and is subject to the tax imposed by KRS 141.020;
- (10) "Knowledge-based" has the same meaning as in KRS 164.6011;
- (11) (a) "Qualified activity" means any knowledge-based activity related to the new economy focus areas of the ***Office of Entrepreneurship***~~[Department of Commercialization and Innovation]~~, including but not limited to:
 - 1. Bioscience;
 - 2. Environmental and energy technology;
 - 3. Health and human development;
 - 4. Information technology and communications; and
 - 5. Materials science and advanced manufacturing.
- (b) A "qualified activity" does not include any activity principally engaged in by financial institutions, commercial development companies, credit companies, financial or investment advisors, brokerage or financial firms, other investment funds or investment fund managers, charitable and religious institutions, oil and gas exploration companies, insurance companies, residential housing developers, retail establishments, or any activity that the authority determines in its discretion to be against the public interest, against the purposes of KRS 154.20-230 to 154.20-240, or in violation of any law;
- (12) "Qualified investment" means an investment meeting the requirements of KRS 154.20-234 for qualified investments, and certified pursuant to KRS 154.20-236;
- (13) "Qualified investor" means an individual investor meeting the requirements of KRS 154.20-234 for qualified investors, and certified pursuant to KRS 154.20-236; and
- (14) "Qualified small business" means an entity meeting the requirements of KRS 154.20-234 for qualified small businesses, and certified pursuant to KRS 154.20-236.

➔Section 23. KRS 154.20-234 is amended to read as follows:

The requirements for small businesses, investors, and investments to be qualified for participation in the Angel Investor Program are as follows:

- (1) To be certified as a qualified small business, the business shall demonstrate to the authority that it is an entity which, at the time the small business requests certification:
 - (a) Has a net worth of ten million dollars (\$10,000,000) or less or net income after federal income taxes for each of the two (2) preceding fiscal years of three million dollars (\$3,000,000) or less;
 - (b) Is actively and principally engaged in a qualified activity within the Commonwealth, or will be actively and principally engaged in a qualified activity within the Commonwealth after the receipt of a qualified investment by a qualified investor;
 - (c) Has no more than one hundred (100) full-time employees;
 - (d) Has more than fifty percent (50%) of its assets, operations, and employees located in the Commonwealth; and
 - (e) Has at no time received an aggregate amount of qualified investments that has allowed qualified investors to receive more than one million dollars (\$1,000,000) in angel investor credits;
- (2) To be certified as a qualified investor, an individual investor shall demonstrate to the authority that he or she:
 - (a) Is an individual natural person;
 - (b) Qualifies as an accredited investor pursuant to Regulation D of the United States Securities and Exchange Commission, 17 C.F.R. sec. 230.501, in effect as of the date the individual investor requests certification;
 - (c) Does not hold in excess of twenty percent (20%) ownership interest in, and is not employed by, the qualified small business prior to making the qualified investment in that qualified small business;

- (d) Is not closely related to an individual who holds in excess of twenty percent (20%) ownership interest in, or who is employed by, the qualified small business prior to making the qualified investment in that qualified small business. For purposes of this paragraph, "closely related" means the parent, spouse, or child of an individual; and
 - (e) Seeks a financial return from the investment made in the qualified small business;~~[-and]~~
- (3) To be certified as a qualified investment, the investment shall:
- (a) Be a cash investment of at least ten thousand dollars (\$10,000), in a qualified small business by a qualified investor; **and**
 - (b) Be offered and executed in compliance with applicable state and federal securities laws and regulations; and
 - ~~[(c) Be exchanged for consideration in the form of an equity interest in the qualified small business, such as a general or limited partnership interest, common or preferred stock with or without voting rights and without regard to seniority position, or forms of subordinate or convertible unsecured debt, or both, with warrants, rights, or other means of equity conversion attached.]~~
- (4) ***The authority may establish additional requirements and guidelines for the efficient implementation and administration of the Kentucky Angel Investment Act and to carry out its purposes.***

➔Section 24. KRS 154.20-238 is amended to read as follows:

- (1) No later than the earlier of:
 - (a) ***Eighty (80)***~~[(Sixty (60))]~~ days following the date of credit approval, including weekends and holidays; or
 - (b) December 31 of the calendar year of the approval;

The qualified investor shall make the qualified investment ***and***~~[- Within twenty (20) days of making the qualified investment, including weekends and holidays, the qualified investor shall]~~ provide proof of the qualified investment to the authority in the manner required by the authority.
- (2) No later than sixty (60) days following the receipt of proof of the qualified investment, the authority shall notify the department of the credit award, the amount of the credit, and the name and Social Security number of the qualified investor that will receive the credit.
- (3) If the qualified investor either fails to make the qualified investment~~[- prior to the deadline]~~ or fails to provide the required proof of the qualified investment ***prior to the deadline***, the award of credit approval shall be null and void, and the authority shall notify the qualified investor of the nullification and readjust the amount of credit available.
- (4) (a) The authority shall maintain a publicly available Web site on which it shall report:
 - 1. A list of all ***currently certified*** qualified small businesses and qualified investors~~[- it has certified];~~
 - 2. The total amount of credit it has awarded; and
 - 3. The total amount of available credit remaining.
- (b) This report shall be updated as new small businesses and investors are certified, and as new credits are awarded or the amount of available credit is otherwise adjusted.

➔Section 25. KRS 154.27-050 is amended to read as follows:

- (1) The department may release to an approved company any sales tax incentives under KRS 139.517 and 154.27-070 after review of the request for incentives required by KRS 139.517 and determination of the amount due regardless of whether the minimum capital investment has been made as required by the tax incentive agreement.
- (2) The authority shall monitor all tax incentive agreements. The authority may seek assistance from the Department for Energy Development and Independence, the Department of Revenue, the Center for Applied Energy Research, or other entities or individuals in performing its monitoring functions.
- (3) The department shall track the amount of revenues released and incentives received for each eligible project under each tax incentive agreement and shall provide the authority the information upon request.

- (4) By November 1 of each year, the authority and the department shall jointly prepare ***an annual report and post it to the Cabinet for Economic Development Web site*** ~~a report for the Governor and the Legislative Research Commission,~~ as required in KRS 154.12-2035. The report shall include a list of all companies with which tax incentive agreements have been entered into and a summary of the terms of each agreement, including the type of facility approved, product to be produced, estimated output upon completion, required minimum capital investment and maximum recovery, incentives approved by type of tax and amount, activation date, and termination date.

➔Section 26. KRS 154.30-010 is amended to read as follows:

As used in this subchapter:

- (1) "Activation date" means:
- (a) For all projects except those described in paragraph (b) of this subsection, the date established any time within a two (2) year period after the commencement date. The Commonwealth may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension; and
 - (b) For signature projects approved under KRS 154.30-050(2)(a), the date established any time within a ten (10) year period after the commencement date.

For all projects established after the effective date of this Act, the ~~The~~ activation date is the date on which the time period for the pledge of incremental revenues shall commence. To implement the activation date, ***the minimum capital investment must be met and*** the agency that is a party to the tax incentive agreement shall notify the office;

- (2) "Agency" means:
- (a) An urban renewal and community development agency established under KRS Chapter 99;
 - (b) A development authority established under KRS Chapter 99;
 - (c) A nonprofit corporation;
 - (d) A housing authority established under KRS Chapter 80;
 - (e) An air board established under KRS 183.132 to 183.160;
 - (f) A local industrial development authority established under KRS 154.50-301 to 154.50-346;
 - (g) A riverport authority established under KRS 65.510 to 65.650; or
 - (h) A designated department, division, or office of a city or county;
- (3) "Approved public infrastructure costs" means costs associated with the acquisition, installation, construction, or reconstruction of public works, public improvements, and public buildings, including planning and design costs associated with the development of such public amenities. "Approved public infrastructure costs" includes but is not limited to costs incurred for the following:
- (a) Land preparation, including demolition and clearance work;
 - (b) Buildings;
 - (c) Sewers and storm drainage;
 - (d) Curbs, sidewalks, promenades, and pedways;
 - (e) Roads;
 - (f) Street lighting;
 - (g) The provision of utilities;
 - (h) Environmental remediation;
 - (i) Floodwalls and floodgates;
 - (j) Public spaces or parks;
 - (k) Parking;
 - (l) Easements and rights-of-way;

- (m) Transportation facilities;
 - (n) Public landings;
 - (o) Amenities, such as fountains, benches, and sculptures; and
 - (p) Riverbank modifications and improvements;
- (4) "Approved signature project costs" means:
- (a) The acquisition of land for portions of the project that are for infrastructure; and
 - (b) Costs associated with the acquisition, installation, development, construction, improvement, or reconstruction of infrastructure, including planning and design costs associated with the development of infrastructure, including but not limited to parking structures, including portions of parking structures that serve as platforms to support development above;
- that have been determined by the commission to represent a unique challenge in the financing of a project such that the project could not be developed without incentives intended by this chapter to foster economic development;
- (5) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;
- (6) "Capital investment" means:
- (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (b) The cost of acquiring land or rights in land within the development area on the footprint of the project, and any cost incident thereto, including recording fees;
 - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of a project which is not paid by the contractor or contractors or otherwise provided;
 - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (e) All costs that are required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of a project; and
 - (f) All other costs of a nature comparable to those described in this subsection *that occur after preliminary approval*;
- (7) "City" means any city, consolidated local government, or urban-county government;
- (8) "Commencement date" means the *final approval date or the* date on which a tax incentive agreement is executed;
- (9) "Commonwealth" means the Commonwealth of Kentucky;
- (10) "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;
- (11) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items, base year computed for 1982 to 1984 equals one hundred (100), published by the United States Department of Labor, Bureau of Labor Statistics;
- (12) "Department" means the Department of Revenue;
- (13) "Development area" means an area established under KRS 65.7049, 65.7051, and 65.7053;
- (14) "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter 154;
- (15) "Financing costs" means principal, interest, costs of issuance, debt service reserve requirements, underwriting discount, costs of credit enhancement or liquidity instruments, and other costs directly related to the issuance of bonds or debt for approved public infrastructure costs or approved signature project costs for projects approved pursuant to KRS 154.30-050;

- (16) "Footprint" means the actual perimeter of a discrete, identified project within a development area. The footprint shall not include any portion of a development area outside the area for which actual capital investments are made *and must be contiguous*;
- (17) "Governing body" means the body possessing legislative authority in a city or county;
- (18) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects;
- (19) "Incremental revenues" means:
 - (a) The amount of revenues received by a taxing district, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area, or a project within a development area; or
 - (b) The amount of revenues received by the Commonwealth as determined by subtracting old revenues from new revenues in a calendar year with respect to the footprint;
- (20) "Local participation agreement" means the agreement entered into under KRS 65.7063;
- (21) "Local tax revenues" has the same meaning as in KRS 65.7045;
- (22) "New revenues" means:
 - (a) The amount of local tax revenues received by a taxing district with respect to a development area in any calendar year beginning with the year in which the activation date occurred;~~or~~
 - (b) The amount of state tax revenues received by the Commonwealth with respect to the footprint in any calendar year beginning with the year in which the activation date occurred;
- (23) "Old revenues" means:
 - (a) The amount of local tax revenues received by a taxing district with respect to a development area *as of December 31 of the year of preliminary approval*~~during the last calendar year prior to the commencement date~~; or
 - (b) 1. The amount of state tax revenues received by the Commonwealth within the footprint *as of December 31 of the year of preliminary approval*~~during the last calendar year prior to the commencement date~~. If the authority determines that the amount of state tax revenues received *as of December 31 of*~~during~~ the last calendar year prior to the commencement~~date~~ *of preliminary approval* does not represent a true and accurate depiction of revenues, the authority may consider revenues for a period of no longer than three (3) calendar years prior to the *year of preliminary approval*~~commencement date~~, so as to determine a fair representation of state tax revenues. The amount determined by the authority shall be specified in the tax incentive agreement. If state tax revenues were derived from the footprint prior to the *year of preliminary approval*~~commencement date~~, old revenues shall increase each calendar year by:
 - a. The percentage increase, if any, of the CPI or a comparable index; or
 - b. An alternative percentage increase that is determined to be appropriate by the authority.
 The method for increasing old revenues shall be set forth in the tax incentive agreement;
 - 2. If state revenues were derived from the footprint prior to the *year of preliminary approval*~~commencement date~~, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues.
- (24) "Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, except any of the following:
 - (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;
 - (b) Increment bonds in replacement of which or in exchange for which other increment bonds have been issued; or
 - (c) Increment bonds for the payment, redemption, or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited,

and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

- (25) ***"Preliminary approval" means the action taken by the authority preliminarily approving an eligible project for incentives under this subchapter;***
- (26) "Project" means any property, asset, or improvement located in a development area and certified by the governing body as:
- (a) Being for a public purpose; and
 - (b) Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and
 - (c) Contributing to economic development or tourism; and
 - (d) Meeting the additional requirements established by KRS 154.30-040, 154.30-050, or 154.30-060;
- ~~(27)(26)~~ "Signature project" means a project approved under KRS 154.30-050;
- ~~(28)(27)~~ "State real property ad valorem tax" means real property ad valorem taxes levied under KRS 132.020(1)(a);
- ~~(29)(28)~~ "State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:
- (a) State real property ad valorem taxes;
 - (b) Individual income taxes levied under KRS 141.020, other than individual income taxes that have already been pledged to support an economic development project within the development area;
 - (c) Corporation income taxes levied under KRS 141.040, other than corporation income taxes that have already been pledged to support an economic development project within the development area;
 - (d) Limited liability entity taxes levied under KRS 141.0401, other than limited liability entity taxes that have already been pledged to support an economic development project within the development area; and
 - (e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged for:
 1. Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and
 2. Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area;
- ~~(30)(29)~~ "Tax incentive agreement" means an agreement entered into in accordance with KRS 154.30-070; and
- ~~(31)(30)~~ "Termination date" means:
- (a) For a tax incentive agreement satisfying the requirements of KRS 154.30-040 or 154.30-060, a date established by the tax incentive agreement that is no more than twenty (20) years from the activation date. However, the termination date for a tax incentive agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the tax incentive agreement relates; and
 - (b) For a project grant agreement satisfying the requirements of KRS 154.30-050, a date established by the tax incentive agreement that is no more than thirty (30) years from the activation date. However, the termination date for a tax incentive agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the tax incentive agreement relates.

➔SECTION 27. A NEW SECTION OF SUBCHAPTER 27 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

No application for incentives found in KRS 154.27-010 to 154.27-100 shall be accepted by the authority after August 1, 2018. All outstanding projects with preliminary or final approval shall continue to be governed by the provisions of this subchapter.

➔Section 28. KRS 154.30-070 is amended to read as follows:

- (1) The terms and conditions of the tax incentive agreement shall be negotiated between the authority and the agency. The tax incentive agreement shall include but not be limited to the following provisions:
 - (a) Identification of the parties to the tax incentive agreement and the duties and responsibilities of each party to the tax incentive agreement;
 - (b) The specific identification of the state tax revenues, by type of tax, to be released or pledged by the Commonwealth for the project;
 - (c)
 1. A detailed summary of old revenues collected and projected new revenues for the Commonwealth on an annual basis for the term of the tax incentive agreement; and
 2. The maximum amount of incremental revenue to be released by the Commonwealth and the maximum number of years the pledge of incremental revenues will be effective;
 - (d) A detailed description of each project that is the subject of the tax incentive agreement, including an estimate of the costs of construction or acquisition and development;
 - (e) Identification of the project footprint from which the state incremental revenues pledged by the Commonwealth are to be derived;
 - (f) The approved public infrastructure costs and, when applicable, approved signature project costs, approved financing costs, and approved costs relating to land preparation, demolition, and clearance that may be recovered;
 - (g) The minimum capital investment required, ~~and~~ the date by which the minimum capital investment is expected to occur, ***and a provision stating that failure of the approved company to meet the minimum capital investment established by KRS 154.30-040, 154.30-050, or 154.30-060 on or before the activation date shall result in cancellation of the tax incentive agreement;***
 - (h) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the tax incentive agreement of any incremental revenues if increment bonds are outstanding that are secured by a pledge of those incremental revenues;
 - (i) The termination date;
 - (j) A requirement that the agency, city, or county annually certify to the authority the use of incremental revenues for the payment of approved project costs within the development area;
 - (k) A requirement that the agency shall utilize the portion of incremental revenues pledged pursuant to a tax incentive agreement that exceeds, in a given year, the amounts needed to:
 1. Pay the current financing costs; and
 2. Maintain a fully funded reserve;

to provide for the retirement or defeasance of all or a portion of the remaining financing costs related to approved public infrastructure costs, and approved signature project costs secured by the incremental revenues;
 - (l) A requirement that the agency, city, or county make periodic accountings to the authority;
 - (m) A requirement that the authority monitor and verify approved public infrastructure costs, financing costs and approved signature project costs and minimum capital investment; and
 - (n) For a signature project, the eligible refund ***amount or*** percentage for the sales tax as permitted under KRS 139.515, and as determined by the authority pursuant to KRS 65.7075(6); and
 - (o) Any other provisions not inconsistent with this subchapter deemed necessary or appropriate by the parties to the tax incentive agreement.
- (2) Any pledge of incremental revenues in a tax incentive agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date, supersede any statute or ordinance regarding the application or use of incremental revenues. An ordinance in conflict with a

tax incentive agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.

- (3) Any tax incentive agreement shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the tax incentive agreement.

➔Section 29. KRS 154.30-080 is amended to read as follows:

- (1) (a) Prior to any incremental revenues being released by the Commonwealth for any project, the authority shall certify that the minimum capital investment has been made as required by the tax incentive agreement.
- (b) Incremental revenues received after the activation date but prior to certification of the minimum capital investment shall be retained by the Commonwealth until the minimum capital investment is certified by the authority. The incremental revenues shall be released to the agency upon certification. If the minimum capital investment is not certified within the time period established by the authority, the incremental revenues shall be forfeited to the Commonwealth.
- (c) ***The tax incentive agreement shall be canceled and the approved agency shall not be eligible for incentives if the agency fails to meet the minimum capital investment established by KRS 154.30-040, 154.30-050, or 154.30-060 on the activation date.***
- (2) The authority shall monitor all tax incentive agreements and shall verify for each project expenditure identified as approved public infrastructure costs and where applicable, financing costs, approved signature project costs and expenses for land preparation, demolition and clearance.
- (3) The authority ***and the department*** shall track the amount of incremental revenues released to each agency under each tax incentive agreement.

➔Section 30. KRS 154.31-010 is amended to read as follows:

As used in this subchapter:

- (1) "Agreement" means an agreement entered into pursuant to KRS 154.31-030 between the authority and an approved company;
- (2) ***"Alternative fuel production" means a Kentucky operation that primarily produces for sale alternative transportation fuels. The alternative fuel production may produce electricity as a by-product if the primary function of the operations remains the production and sale of alternative transportation fuels;***
- (3) ***"Alternative transportation fuels" has the same meaning as in KRS 152.715;***
- (4) "Approved company" means an eligible company that has received approval from the authority for a sales and use tax incentive under this subchapter;
- ~~(5)(3)}~~ "Approved recovery amount" means the maximum sales and use tax incentive recoverable by an approved company as established in the agreement;
- ~~(6)(4)}~~ "Authority" means the Kentucky Economic Development Finance Authority;
- (7) ***"Biomass resources" has the same meaning as in KRS 152.715;***
- (8) ***"Carbon dioxide transmission pipeline" means the in-state portion of a pipeline, including appurtenant facilities, property rights, and easements, that is used exclusively for the purpose of transporting carbon dioxide to the point of sale, storage, or other carbon management applications;***
- ~~(9)(5)}~~ "Department" means the Department of Revenue;
- ~~(10)(6)}~~ "Economic development project" means:
- (a) 1. The acquisition or construction of a new facility; or
2. The expansion or rehabilitation of an existing facility; ~~or~~ ~~and~~
- (b) The installation and equipping of ~~a~~ ~~the~~ facility;
- by an eligible company at a specific site in the Commonwealth to be used in ~~an~~ ~~a service or technology,~~ ~~manufacturing, or tourism attraction~~ activity conducted by the approved company;

- (11)~~(7)~~ "Electronic processing" means the use of technology having electronic, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, now in existence or later developed to perform a service or technology activity;
- (12)~~(8)~~ (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or other legal entity that is primarily engaged in manufacturing;~~[-or]~~ service or technology activities~~[-];~~ ***agribusiness; headquarters operations; alternative fuel, gasification, energy-efficient alternative fuel or renewable energy production; carbon dioxide transmission pipelines;*** or in operating or developing a tourism attraction.
- (b) "Eligible company" does not include any company whose primary activity is retail sales;
- (13)~~(9)~~ "Eligible expenses" means the amount expended for:
- (a) Building and construction materials permanently incorporated as an improvement to real property as part of an economic development project; or
- (b) Equipment used for research and development or electronic processing at an economic development project;
- if the Kentucky sales and use tax imposed by KRS Chapter 139 is paid on the purchase of the materials or equipment at the time of purchase;
- (14) ***"Energy-efficient alternative fuel production" means a Kentucky operation that produces energy-efficient alternative fuels for sale;***
- (15) ***"Energy-efficient alternative fuels" means homogeneous fuels that:***
- (a) ***Are produced from processes designed to densify feedstock coal, waste coal, or biomass resources; and***
- (b) ***Have an energy content that is greater than the feedstock coal, waste coal, or biomass resource;***
- (16)~~(10)~~ (a) "Equipment" means tangible personal property which is subject to depreciation under Sections 167 and 168 of the Internal Revenue Code, including assets which are expensed under Section 179 of the Internal Revenue Code, and that is used in the operation of a business.
- (b) "Equipment" does not include any tangible personal property used to maintain, restore, mend, or repair machinery or equipment, consumable operating supplies, office supplies, or maintenance supplies;
- (17) ***"Gasification process" means a process that converts any carbon containing material into a synthesis gas composed primarily of carbon monoxide and hydrogen;***
- (18) ***"Gasification production" means a Kentucky operation that primarily produces for sale:***
- (a) ***Alternative transportation fuels;***
- (b) ***Synthetic natural gas;***
- (c) ***Chemicals;***
- (d) ***Chemical feedstocks; or***
- (e) ***Liquid fuels;***
- from coal, waste coal, coal-processing waster, or biomass resources, through a gasification process. The gasification production may produce electricity as a by-product if the primary function of the operations remains the production and sale of alternative transportation fuels, synthetic natural gas, chemicals, chemical feedstocks, or liquid fuels;***
- (19) ***"Headquarters" means the principal office where the principal executives of the entity are located and from which other personnel, branches, affiliates, offices, or entities are controlled;***
- (20)~~(11)~~ (a) "Manufacturing" means to make, assemble, process, produce, or perform any activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities.
- (b) "Manufacturing" does not include any activity involving the performance of work classified by the divisions, including successor divisions, of mining in accordance with the "North American Industry

Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication;

~~(21)(12)~~ "Project term" means the time for which an agreement shall be in effect. The project term shall be established in the agreement and shall not exceed seven (7) years;

(22) ***"Renewable energy production" means a Kentucky operation that utilizes wind power, biomass resources, landfill methane gas, hydropower, solar power, or other similar renewable resources to generate electricity for sale to unrelated entities;***

~~(23)(13)~~ (a) "Research and development" means experimental or laboratory activity that has as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products, or the development or improvement of methods for producing products.

(b) "Research and development" does not include testing or inspection of materials or products for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities, or research in connection with literary, historical, or similar projects;~~and~~

~~(24)(14)~~ "Service or technology" means any nonretail activity using technology or providing a service, including but not limited to:

- (a) Administration and processing activities;
- (b) Research and development;
- (c) Telephone or Internet sales or services;
- (d) Distribution or fulfillment of orders;
- (e) Data processing; and
- (f) Similar activities;

provided to customer or affiliate entities primarily outside the Commonwealth and designed to serve a multistate, national, or international market; ***and***

(25) ***"Synthetic natural gas" has the same meaning as in KRS 152.715.***

➔Section 31. KRS 154.31-020 is amended to read as follows:

(1) The maximum amount of sales and use tax incentives that may be committed in each fiscal year by the authority shall be capped at twenty million dollars (\$20,000,000) for building and construction materials, and five million dollars (\$5,000,000) for equipment used for research and development,~~or~~ ***or flight simulation.***

(2) (a) To qualify for the sales and use tax incentives available under this subchapter, an eligible company shall make a minimum investment of at least five hundred thousand dollars (\$500,000) in an economic development project, including the cost of land, but excluding the cost of labor.

(b) To qualify for the sales and use tax incentive available under this subchapter for electronic processing equipment, in addition to the requirements of paragraph (a) of this subsection, the eligible company shall spend an aggregate amount of at least fifty thousand dollars (\$50,000) on electronic processing equipment installed as part of the economic development project.

(3) (a) The maximum sales and use tax incentive available to an approved company under this subchapter is the total amount of sales and use tax paid on purchases made on the following items, up to the approved recovery amount after approval by the authority:

- 1. Building and construction materials;
- 2. Research and development equipment;~~and~~
- 3. Electronic processing equipment; ***and***

4. Flight simulation equipment.

(b) An approved company may qualify for a sales and use tax incentive in more than one (1) category listed in paragraph (a) of this subsection for the same economic development project. If the authority approves an eligible company to receive the sales and use tax incentives in more than one (1) category,

the authority shall allocate the incentives to the appropriate cap established by subsection (~~1~~~~2~~) of this section.

➔Section 32. KRS 154.31-030 is amended to read as follows:

- (1) The application, approval, and monitoring process under this subchapter shall be as follows:
 - (a) An eligible company with a proposed economic development project may submit an application to the authority. The application shall include the information required by subsection (3) of this section;
 - (b) Upon review of the application and any additional information submitted, the authority may, by resolution, approve an economic development project and authorize the negotiation and execution of an agreement pursuant to subsection (4) of this section. Approval granted pursuant to this subsection shall apply to a specific economic development project at a specific location within the Commonwealth;
 - (c) Upon approval, the authority shall notify the department that an approved company is eligible for a sales and use tax incentive under this subchapter and shall provide the department with the information necessary to monitor the use of incentives by the approved company. The authority shall notify the department if the agreement is extended or amended, or if the incentives are transferred, and shall provide the department with the information necessary to update its records; and
 - (d) The approved company shall be eligible to receive the sales and use tax incentives authorized by the agreement upon the earlier of the completion of the economic development project or expiration of the project term. The approved company shall apply to the department for the sales and use tax incentives as provided in KRS 139.535, and shall, during the project term, submit all information required by the department as provided in KRS 139.535.
- (2) The authority may establish standards for the review of applications and the approval of eligible companies through the promulgation of administrative regulations in accordance with KRS Chapter 13A. In reviewing applications and establishing standards, the authority shall consider the creditworthiness of the eligible company, employment opportunities for Kentucky residents, wages to be paid, whether the eligible company is participating in other incentive programs pursuant to KRS Chapter 154 for the project, the likelihood that the project will be an economic success, and any other factors the authority determines to be relevant.
- (3) The application submitted by an eligible company shall include but not be limited to the following:
 - (a) A description of the proposed economic development project;
 - (b) The anticipated minimum investment in the proposed economic development project;
 - (c) An estimate of the approved recovery amount that the company will seek;
 - (d) A timeline for completion of the proposed economic development project;
 - (e) Supporting documentation, as requested by the authority;
 - (f) Payment of any applicable application fee required by the authority; and
 - (g) Any other information requested by the authority.
- (4)
 - (a) Upon approval of an eligible company, the authority may enter into an agreement with the approved company. The terms of the agreement shall be determined by negotiations between the authority and the approved company, and shall include but not be limited to the following provisions:
 1. The project term;
 2. A description of the economic development project;
 3. The total approved recovery amount in each category for which the approved company is eligible;
 4. That the approved company shall maintain all records and documentation relating to eligible expenditures and the Kentucky sales and use tax paid, and shall provide those records and documentation to the authority or the department upon request;
 5. That the approved company shall execute information-sharing agreements prescribed by the department with contractors, vendors, and other related parties to verify the costs of and payment of sales and use tax on the tangible personal property eligible for the sales and use tax incentive under this subchapter;

- 6. That the sales and use tax incentives shall not be assignable or transferable without written notice to the authority and approval of the authority; and
- 7. Any other provisions not inconsistent with this subchapter.
- (b) The project term established in the agreement may be extended by approval of the authority for good cause shown; however, the term shall not be extended beyond seven (7) years from the date of approval.
- (c) An approved company may transfer or assign its designation as an approved company upon prior notification to the authority and approval of the authority in a manner prescribed by the authority.
- (5) The contents of a company's filings under this subchapter shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.
- (6) ***By November 1 of each year, the authority shall*** ~~annually~~***prepare*** ~~submit a complete and detailed~~***an annual report*** ~~of the use of the sales and use tax incentives and participation of approved companies under this subchapter by November 1 of each year to the Legislative Research Commission and to the Governor,~~***and make it available on the Cabinet for Economic Development Web site*** as required in KRS 154.12-2035.

➔Section 33. KRS 154.32-010 is amended to read as follows:

- (1) "Activation date" means the date established in the tax incentive agreement that is within two (2) years of final approval;
- (2) "Advance disbursement" means the disbursement of incentives prior to the activation date;
- (3) "Affiliate" *means the following:*
 - (a) *Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;*
 - (b) *An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;*
 - (c) *An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;*
 - (d) *Two (2) corporations which are members of the same controlled group, which includes and is limited to:*
 - 1. *One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:*
 - a. *Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and*
 - b. *The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or*
 - 2. *Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;*
 - (e) *A grantor and a fiduciary of any trust;*
 - (f) *A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;*
 - (g) *A fiduciary of a trust and a beneficiary of that trust;*
 - (h) *A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;*

- (i) *A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;*
 - (j) *A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;*
 - (k) *A corporation, a partnership, or a limited partnership if the same persons own:*
 - 1. *More than fifty percent (50%) in value of the outstanding stock of the corporation; and*
 - 2. *More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;*
 - (l) *A corporation and a limited liability company if the same persons own:*
 - 1. *More than fifty percent (50%) in value of the outstanding stock of the corporation; and*
 - 2. *More than fifty percent (50%) of the capital interest or the profits in the limited liability company;*
 - (m) *A partnership or limited partnership and a limited liability company if the same persons own:*
 - 1. *More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and*
 - 2. *More than fifty percent (50%) of the capital interest or the profits in the limited liability company;*
 - (n) *An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or*
 - (o) *An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended; or*~~*has the same meaning as in KRS 154.48-010 and, in addition, shall include two (2) or more limited liability companies if the same persons own more than fifty percent (50%) of the capital interest or are entitled to more than fifty percent (50%) of the capital profits in the limited liability companies;*~~
 - (p) *Two (2) or more limited liability companies, if the same persons own more than fifty percent (50%) of the capital interest or are entitled to more than fifty percent (50%) of the capital profits in the limited liability companies;*
- (4) "Agribusiness" means the processing of raw agricultural products, including but not limited to timber and industrial hemp, or the performance of value-added functions with regard to raw agricultural products;
 - (5) *"Alternative fuel production" means a Kentucky operation that primarily produces alternative transportation fuels for sale. The alternative fuel production may produce electricity as a by-product if the primary function of the operations remains the production and sale of alternative transportation fuels;*
 - (6) *"Alternative transportation fuels" has the same meaning as in KRS 152.715;*
 - (7) "Approved company" means an eligible company that has received final approval to receive incentives under this subchapter;
 - ~~(8)(6)~~ "Approved costs" means the amount of eligible costs approved by the authority at final approval;
 - ~~(9)(7)~~ "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;
 - (10) *"Biomass resources" has the same meaning as in KRS 152.715;*
 - ~~(11)(8)~~ "Capital lease" means a lease classified as a capital lease by the Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976, as amended;

(12) ***"Carbon dioxide transmission pipeline" means the in-state portion of a pipeline, including appurtenant facilities, property rights, and easements, that is used exclusively for the purpose of transporting carbon dioxide to the point of sale, storage, or other carbon management applications;***

(13)~~(9)~~ "Commonwealth" means the Commonwealth of Kentucky;

(14)~~(10)~~ "Confirmed approved costs" means:

- (a) For owned economic development projects, the documented eligible costs incurred on or before the activation date; or
- (b) For leased economic development projects:
 - 1. The documented eligible costs incurred on or before the activation date; and
 - 2. Estimated rent to be incurred by the approved company throughout the term of the tax incentive agreement.

For both owned and leased economic development projects, "confirmed approved costs" may be less than approved costs, but shall not be more than approved costs;

(15)~~(11)~~ "Department" means the Department of Revenue;

(16)~~(12)~~ "Economic development project" means:

- (a) ~~1.—~~ The acquisition, leasing, or construction of a new facility; ~~or~~
- (b) ~~2.—~~ The acquisition, leasing, rehabilitation, or expansion of an existing facility; ~~or and~~
- (c)~~(b)~~ The installation and equipping of ~~a the~~ facility;

by an eligible company. "Economic development project" does not include any economic development project that will result in the replacement of facilities existing in the Commonwealth, except as provided in KRS 154.32-060;

(17)~~(13)~~ (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity with a proposed economic development project that is engaged in or is planning to be engaged in one (1) or more of the following activities within the Commonwealth:

- 1. Manufacturing;
- 2. Agribusiness;
- 3. Nonretail service or technology; ~~or~~
- 4. ~~Headquarters~~ ~~National or regional headquarters~~ operations, regardless of the underlying business activity of the company; ~~;~~
- 5. ***Alternative fuel, gasification, energy-efficient alternative fuel, or renewable energy production; or***
- 6. ***Carbon dioxide transmission pipeline.***

(b) "Eligible company" does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, mining, coal or mineral processing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, educational services, accommodation and food services, or public administration services;

(18)~~(14)~~ "Eligible costs" means:

- (a) For owned economic development projects:
 - 1. Start-up costs;
 - 2. ***Nonrecurring obligations*** ~~[Obligations]~~ incurred for labor and ***nonrecurring payments*** ~~[amounts paid]~~ to contractors, subcontractors, builders, and materialmen in connection with the economic development project;
 - 3. The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

4. The cost of contract bonds and of insurance of all kinds that may be required or necessary for completion of an economic development project which is not paid by a contractor or otherwise provided for;
 5. All costs of architectural and engineering services, including test borings, surveys, estimated plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required for construction of the economic development project;
 6. All costs which are required to be paid under the terms of any contract for the economic development project;
 7. All costs incurred for construction activities, including site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation of railroad spurs as needed to connect the economic development project to existing railways; or similar activities as the authority may determine necessary for construction of the economic development project; and
 8. All other costs of a nature comparable to those described above; and
- (b) For leased economic development projects:
1. Start-up costs;~~and~~
 2. ***Building/leasehold improvements; and***
 - 3~~2~~. Fifty percent (50%) of the estimated annual rent for each year of the tax incentive agreement.

Notwithstanding any other provision of this subsection, for economic development projects that are not in enhanced incentive counties, the cost of equipment eligible for recovery as an eligible cost shall not exceed twenty thousand dollars (\$20,000) for each new full-time job created as of the activation date;

- (19)~~(15)~~ "Employee benefits" means~~nonmandated~~ payments by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;
- (20) ***"Energy-efficient alternative fuel production" means a Kentucky operation that produces for sale energy-efficient alternative fuels;***
- (21) ***"Energy-efficient alternative fuels" means homogeneous fuels that:***
- (a) ***Are produced from processes designed to densify feedstock coal, waste coal, or biomass resources; and***
 - (b) ***Have an energy content that is greater than the feedstock coal, waste coal, or biomass resource;***
- (22)~~(16)~~ "Enhanced incentive counties" means counties certified by the authority pursuant to KRS 154.32-050;
- (23)~~(17)~~ "Final approval" means the action taken by the authority authorizing the eligible company to receive incentives under this subchapter;
- (24)~~(18)~~ "Full-time job" means a job held by a person who:
- (a) Is a Kentucky resident subject to the Kentucky individual income tax imposed by KRS 141.020; and
 - (b) Is required to work a minimum of thirty-five (35) hours per week;
- (25) ***"Gasification process" means a process that converts any carbon-containing material into a synthesis gas composed primarily of carbon monoxide and hydrogen;***
- (26) ***"Gasification production" means a Kentucky operation that primarily produces for sale:***
- (a) ***Alternative transportation fuels;***
 - (b) ***Synthetic natural gas;***
 - (c) ***Chemicals;***

(d) *Chemical feedstocks; or*

(e) *Liquid fuels;*

from coal, waste coal, coal-processing waste, or biomass resources, through a gasification process. The gasification production may produce electricity as a by-product if the primary function of the operations remains the production and sale of alternative transportation fuels, synthetic natural gas, chemicals, chemical feedstocks, or liquid fuels;

(27) *"Headquarters" means the principal office where the principal executives of the entity are located and from which other personnel, branches, affiliates, offices, or entities are controlled;*

(28)~~(19)~~ "Incentives" means the incentives available under this subchapter, as listed in KRS 154.32-020(3);

(29)~~(20)~~ "Job target" means the annual average number of new full-time jobs that the approved company commits to create and maintain at the economic development project, which shall not be less than ten (10) new full-time jobs;

(30)~~(21)~~ "Kentucky gross receipts" has the same meaning as in KRS 141.0401;

(31)~~(22)~~ "Kentucky gross profits" has the same meaning as in KRS 141.0401;

(32)~~(23)~~ "Lease agreement" means an agreement between an approved company and an unrelated entity conveying the right to use *a facility*~~property, plant, or equipment~~, the terms of which reflect an arms' length transaction. "Lease agreement" does not include a capital lease;

(33)~~(24)~~ "Leased project" means an economic development project site occupied by an approved company pursuant to a lease agreement;

(34)~~(25)~~ "Loan agreement" means the agreement between the authority and a preliminarily approved company establishing the terms and conditions of an advance disbursement;

(35)~~(26)~~ "Manufacturing" means any activity involving the processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to the processing, assembling, or production of property~~[-]~~, *together with the*~~"Manufacturing" also includes~~ storage, warehousing, distribution, and *related office facilities*~~activities related to the manufacturing activity~~;

(36)~~(27)~~ *"Wage*~~Minimum wage~~ *target" means the average total hourly compensation amount, including the minimum wage and employee benefits,*~~amount~~ *that the approved company commits to meet for all new full-time jobs created and maintained as a result of the economic development project, which shall not be less than:*

(a) One hundred twenty-five percent (125%) of the federal minimum wage in enhanced incentive counties; or

(b) One hundred fifty percent (150%) of the federal minimum wage in all other counties;

(37)~~(28)~~ (a) "Nonretail service or technology" means any activity where~~[-]~~

~~1.-~~ service or technology is~~[-]~~

~~a.-~~ provided predominantly outside the Commonwealth~~[-]~~ and

~~b.-~~ designed to serve a multistate, national, or international market~~[- or]~~

~~{2. — Service or technology is provided by a national or regional headquarters as a support to other business activities conducted by the eligible company}.~~

(b) "Nonretail service or technology" includes but is not limited to call centers, centralized administrative or processing centers, telephone or Internet sales order or processing centers, distribution or fulfillment centers, data processing centers, research and development facilities, and other similar activities;

(38)~~(29)~~ "Owned project" means an economic development project owned in fee simple by the approved company or an affiliate, or possessed by the approved company or an affiliate pursuant to a capital lease;

(39)~~(30)~~ "Preliminary approval" means the action taken by the authority preliminarily approving an eligible company for incentives under this subchapter;

- (40) *"Renewable energy production" means a Kentucky operation that utilizes wind power, biomass resources, landfill methane gas, hydropower, solar power, or other similar renewable resources to generate electricity for sale to unrelated entities;*
- (41)~~(31)~~ "Rent" means the actual annual rent or fee paid by an approved company under a lease agreement;
- (42)~~(32)~~ "Start-up costs" means **nonrecurring** costs incurred to furnish and equip a facility for an economic development project, including costs incurred for:
- (a) Computers, furnishings, office equipment, manufacturing equipment, and fixtures;
 - (b) The relocation of out-of-state equipment; and
 - (c) ~~Cost~~~~[Nonrecurring costs]~~ of fixed telecommunications equipment;
- as certified to the authority in accordance with KRS 154.32-030;
- (43) *"Synthetic natural gas" means the same thing as in KRS 152.715;*
- (44)~~(33)~~ "Tax incentive agreement" means the agreement entered into pursuant to KRS 154.32-040 between the authority and an approved company;~~[and]~~
- (45)~~(34)~~ "Term" means the period of time for which a tax incentive agreement may be in effect, which shall not exceed fifteen (15) years for an economic development project located in an enhanced incentive county, or ten (10) years for an economic development project not located in any other county; **and**
- (46) *"Wage" means the per hour earnings of a full-time employee, including wages, tips, overtime, bonuses, and commissions, as reflected on the employee's federal form W-2 wage and tax statement, but excludes employee benefits.*

➔Section 34. KRS 154.32-020 is amended to read as follows:

- (1) The purposes of this subchapter are:
- (a) To provide incentives for eligible companies and to encourage the location or expansion of manufacturing facilities, agribusiness operations, nonretail service or technology facilities,~~[and regional or national corporate]~~ **operations, alternative fuel production facilities, gasification production facilities, energy-efficient alternative fuel production facilities, renewable energy production facilities, and carbon dioxide transmission pipelines** in the Commonwealth to advance the public purposes of:
 - 1. Creation of new jobs that, but for the incentives offered by the authority, would not exist within the Commonwealth;
 - 2. Creation of new sources of tax revenues for the support of public services provided by the Commonwealth; and
 - 3. Improvement in the quality of life for Kentucky citizens through the creation of sustainable jobs with higher salaries; and
 - (b) To provide enhanced incentives for companies that locate in enhanced incentive counties in recognition of the depressed economic conditions in those counties and the increased need for the growth and development caused by the depressed economic conditions.
- (2) (a) To qualify for the incentives provided by subsection (3) of this section, an approved company shall:
- 1. Incur eligible costs of at least one hundred thousand dollars (\$100,000);
 - 2. Create at least ten (10) new full-time jobs and maintain an annual average number of at least ten (10) new full-time jobs; and
 - 3.
 - a. Pay at least ninety percent (90%) of all new full-time employees whose jobs were created as a result of the economic development project a minimum wage of at least one hundred twenty-five percent (125%) of the federal minimum wage in enhanced incentive counties, and one hundred fifty percent (150%) of the federal minimum wage in other counties throughout the term of the economic development project; and
 - b. Provide employee benefits for all new full-time jobs equal to at least fifteen percent (15%) of the minimum wage **requirement** ~~[target]~~ established by **subdivision a. of this subparagraph**~~[the tax incentive agreement]~~. If the eligible company does not provide

employee benefits equal to at least fifteen percent (15%) of the minimum wage ~~requirement~~^[target] established by *subdivision a. of this subparagraph*~~the tax incentive agreement~~, the eligible company may still qualify for incentives if it provides the full-time employees hired as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the minimum wage ~~requirement~~^[target] established in *subdivision a. of this subparagraph*~~the tax incentive agreement~~ through increased hourly wages combined with employee benefits.

- (b) To qualify for the advance disbursement provided by KRS 154.32-080, an approved company shall commit to meeting the job and wage requirements established by paragraph (a) of this subsection, and shall provide documentation indicating that the proposed economic development project will require investment of at least five hundred million dollars (\$500,000,000).
- (3) The incentives available under this subchapter are as follows:
 - (a) Tax credits of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040 and the limited liability entity tax imposed under KRS 141.0401 on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the economic development project, as set forth in KRS 141.415 and 154.32-070;
 - (b) Authorization for the approved company to impose a wage assessment against the gross wages of each new employee subject to the Kentucky income tax as provided in KRS 154.32-090; and
 - (c) For economic development projects with an investment of more than five hundred million dollars (\$500,000,000), an advance disbursement as provided in KRS 154.32-080.
- (4) The General Assembly hereby finds and declares that the authority granted in this subchapter and the purposes accomplished hereby are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of economic development projects within the Commonwealth is of paramount importance to the economic well-being of the Commonwealth.

➔Section 35. KRS 154.60-010 is amended to read as follows:

As used in this subchapter:

- (1) "Authority" means the Kentucky Economic Development Finance Authority;
- (2) (a) "Average hourly wage" means the per-hour wage earned by a full-time employee, including wages, tips, overtime, bonuses, and commissions, as reflected on the employee's federal form W-2 wage and tax statement.
- (b) "Average hourly wage" does not include employee benefits as defined in KRS 154.32-010, including health insurance and reimbursements;
- (3) "Base employment" means:
 - (a) For the first application for which credits are approved, the number of full-time employees employed on the day prior to the hire date of the new employee filling the earliest eligible position identified on the application; and
 - (b) For subsequent applications, the number of full-time employees employed on the day prior to the hire date of the new employee filling the earliest eligible position identified on the initial approved application plus each eligible position for which a credit has been approved;
- (4) "Eligible position" means each position that:
 - (a) Is filled by a full-time employee and that increases the total employment of the small business above its base employment; and
 - (b) Carries an average hourly wage of no less than one hundred fifty percent (150%) of the federal minimum wage;
- (5) "Full-time employee" means a person employed by a small business for at least an average of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;
- (6) "Qualifying equipment or technology" means equipment or technology that has been approved by the *Office of Entrepreneurship*~~Division of Small Business Services~~; and

- (7) "Small business" means any business entity organized for profit *that has been approved by the Office of Entrepreneurship*, including a sole proprietorship, partnership, limited partnership, corporation, limited liability company, joint venture, association, or cooperative, that has fifty (50) or fewer full-time employees at the time it applies.

➔Section 36. KRS 154.60-020 is amended to read as follows:

- (1) The authority shall develop a small business development credit program in consultation with the *Office of Entrepreneurship*~~[Division of Small Business Services]~~ to assist new or existing small businesses operating in the Commonwealth. The nonrefundable credit shall be allowed against the taxes imposed by KRS 141.020 or 141.040, and 141.0401. The ordering of credits shall be as provided in KRS 141.0205.
- (2) The authority shall determine the terms, conditions, and requirements for application for the credit, in consultation with the *Office of Entrepreneurship*~~[Division of Small Business Services]~~, subject to the provisions of subsection (3) of this section. The application shall contain identification information about the number of eligible positions created and filled, a calculation of the base employment of the small business, verification of investment of five thousand dollars (\$5,000) or more in qualifying equipment or technology, and other information the authority may specify to determine eligibility for the credit.
- (3)
 - (a) The maximum amount of credits that may be committed in each fiscal year by the authority shall be capped at three million dollars (\$3,000,000).
 - (b) In order to be eligible to receive final approval for a credit, a small business shall, within *the twenty-four (24)*~~a six (6)~~ month period *immediately preceding the application submission date*:
 1. Create and fill one (1) or more eligible positions over the base employment; and
 2. Invest five thousand dollars (\$5,000) or more in qualifying equipment or technology.
 - (c) Each eligible position that is created and filled shall be maintained for twelve (12) months. If a full-time employee filling a newly created eligible position ceases to be employed by the small business for any reason, that employee shall be replaced within forty-five (45) days in order for the eligible position to maintain its eligible status, in addition to meeting all other applicable requirements.
 - ~~(d) A small business shall apply for credits within twenty-four (24) months after meeting the earlier of:~~
 - ~~1. The employment requirement of paragraph (b)1. of this subsection; or~~
 - ~~2. The investment requirement of paragraph (b)2. of this subsection.~~
 - ~~(d)(e)~~ The small business shall submit all information necessary for the authority to determine credit eligibility for each year, and the amount of credit for which the small business is eligible.
 - ~~(e)(f)~~ The maximum amount of credit for each small business for each year shall not exceed twenty-five thousand dollars (\$25,000).
 - ~~(f)(g)~~ The credit shall be claimed on the tax return for the year during which the credit was approved. Unused credits may be carried forward for up to five (5) years.

➔Section 37. The following KRS sections are repealed:

- 141.430 Calculation of income tax credit for approved companies -- Administrative regulations.
- 154.10-100 Statewide network for information transfer and assistance -- Purpose.
- 154.10-120 Preparation of state strategic plan for economic development.
- 154.10-125 Content and effect of strategic economic development plan.
- 154.10-140 Benchmarks to measure performance of economy and progress -- Periodic evaluations of projects and programs.
- 154.30-052 Signature project loan support program -- Program requirements.
- 154.48-010 Definitions for KRS 154.010 to 154.48-035
- 154.48-015 Findings of General Assembly regarding provisions of KRS 154.48-010-154.48-035
- 154.48-020 Administrative regulations establishing standards for preliminary approval of eligible companies and projects -- Review by authority and final approval of companies and projects -- Authority's meetings to be governed by provision of Open Meetings Act.

154.48-025 Environmental stewardship agreements – Final approval of application – Tax credits – Sum of total inducements – Limitation on use of recycling credit – Consent of authority required for transfer of agreement.

154.48-030 Department to make annual report on income tax credits and returns to authority.

154.48-035 Short title for KRS 154.48-010-154.48-035 – Kentucky Environmental Stewardship Act.

224.01-020 Agricultural warehousing sites cleanup fund.

Signed by Governor April 26, 2018.

CHAPTER 200

(HB 592)

AN ACT relating to public agencies and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) *The Education and Workforce Development Cabinet shall require a national and state criminal background check for every employee of the cabinet or its agencies, including contract staff, with access to or use of federal tax information. The criminal background investigation shall be by means of a fingerprint check by the Department of Kentucky State Police and Federal Bureau of Investigation, pursuant to the following requirements:*

- (a) *The cabinet shall require each employee with access to or use of federal tax information to submit a complete and legible set of fingerprints to the Department of Kentucky State Police on a fingerprint card issued by the Federal Bureau of Investigation;*
- (b) *The Department of Kentucky State Police shall submit the fingerprint card to the Federal Bureau of Investigation for a national criminal background check after a state criminal background check is conducted;*
- (c) *The results of a national and state criminal background check shall not be distributed or otherwise released by the cabinet, except that:*
 - 1. *The cabinet shall provide an employee the results of his or her national and state criminal background check upon request; and*
 - 2. *The cabinet may introduce the results, under seal, as evidence in a legal proceeding which involves a challenge to any personnel action taken by the cabinet which is based in whole or in part on information contained in the results; and*
- (d) *Any fee charged by the Department of Kentucky State Police or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the background check.*

(2) *The cabinet or its agencies shall promulgate administrative regulations in accordance with this Act and KRS Chapter 13A to implement this section.*

➔Section 2. KRS 61.826 is amended to read as follows:

- (1) A public agency may conduct any meeting~~[, other than a closed session,]~~ through video teleconference.
- (2) Notice of a video teleconference shall comply with the requirements of KRS 61.820 or 61.823 as appropriate. In addition, the notice of a video teleconference shall:
 - (a) Clearly state that the meeting will be a video teleconference; and
 - (b) Precisely identify *a primary location of the video teleconference where all members can be seen and heard and the public may attend in accordance with KRS 61.840*~~[the video teleconference locations as well as which, if any, location is primary].~~

- (3) The same procedures with regard to participation, distribution of materials, and other matters shall apply in all video teleconference locations.
- (4) Any interruption in the video or audio broadcast of a video teleconference at any location shall result in the suspension of the video teleconference until the broadcast is restored.

➔Section 3. KRS 164A.575 is amended to read as follows:

- (1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:
 - (a) Contractual services where no competition exists;
 - (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;
 - (c) Instructional materials available from only one (1) source;
 - (d) Where rates are fixed by law or ordinance;
 - (e) Library books;
 - (f) Commercial items that are purchased for resale;
 - (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;
 - (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and
 - (i) Interests in real property.
- (2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.
- (3) The governing board shall require the institution to take and maintain inventories of plant and equipment.
- (4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.
- (5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.
- (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the ~~fair market (appraised)~~ value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.
- (7)
 - (a) *Notwithstanding KRS 56.806, the governing board may renegotiate the cost of a lease after the expiration of the lease term and any renewal terms provided in the lease prior to any renewal not provided for in the terms of the lease.*
 - (b) *Except when a lease incorporates a lease-purchase under KRS 56.806, the governing board shall reserve the right to cancel a lease upon at least thirty (30) days' written notice.*
 - (c) *Notwithstanding KRS 56.823(2) and (3), any lease renewals, except automatic renewals permitted under KRS 56.803, 56.805(2), and 56.806(1), for which the annual rental cost will exceed two hundred thousand dollars (\$200,000) shall be reported to the Capital Projects and Bond Oversight Committee in the same format as set out in KRS 56.823(2).*
 - (d) *Notwithstanding KRS 56.813, a public college or university may pay for improvements to leased property costing in excess of ten thousand dollars (\$10,000) but less than one million dollars (\$1,000,000) in a lump sum upon approval of its board using non-general fund appropriations and without incurring debt.*

- (8) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the *fair market*~~appraised~~ value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.
- ~~(9)(8)~~ Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
- ~~(10)(9)~~ (a) As used in this section, "construction manager-agency," "construction management-at-risk," "design-bid-build," "design-build," and "construction manager-general contractor" shall have the same meaning as in KRS 45A.030.
- (b) For capital construction projects, the procurement may be on a total design-bid-build basis, a design-build basis, construction manager-general contractor basis, or construction management-at-risk basis, whichever in the judgment of the board offers the best value to the taxpayer. Best value shall be determined in accordance with KRS 45A.070. Proposals shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Services for projects delivered on the design-build basis, construction manager-general contractor basis, or construction management-at-risk basis shall be procured in accordance with KRS 45A.180, KRS 45A.183, and the regulations promulgated in accordance with KRS 45A.180. Nothing in this section shall prohibit the procurement of construction manager-agency services.
- (c) *Notwithstanding KRS 45A.185, for all capital construction projects, bidder security for competitive sealed bidding for construction contracts shall only be required when the price is estimated to exceed one million dollars (\$1,000,000).*
- ~~(11)(10)~~ The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.
- ~~(12)(11)~~ The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.
- ~~(13)(12)~~ The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the *institution*~~university~~ president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.
- ~~(14)(13)~~ (a) All governing boards that purchase agricultural products, as defined by KRS 45A.630, shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the Department of Agriculture describing the types, quantities, and costs of each product purchased. The report shall be completed on a form provided by the department.
- (b) If purchasing agricultural products, a governing board shall encourage the purchase of Kentucky-grown agricultural products in accordance with KRS 45A.645. If a governing board purchases agricultural products through a contract with a vendor or food service provider, the contract shall require that if

Kentucky-grown agricultural products are purchased, the products shall be purchased in accordance with KRS 45A.645. Only contracts entered into or renewed after July 15, 2008, shall be required to comply with the provisions of this subsection.

- (c) All governing boards that purchase Kentucky-grown agricultural products shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the Department of Agriculture describing the types, quantities, and costs of each product purchased. The report shall be completed on a form provided by the department.
- (15) ***Notwithstanding KRS 45.760, the governing board may authorize a capital construction project or a major item of equipment even though it is not specifically listed in any branch budget bill, subject to the following conditions and procedures:***
 - (a) ***The full cost shall be funded solely by non-general fund appropriations;***
 - (b) ***Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the project or major item of equipment. Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and***
 - (c) ***The institution's president, or designee, shall submit the project or major item of equipment to the Capital Projects and Bond Oversight Committee for review as provided by KRS 45.800.***
- ~~(16)(14)~~ Governing boards shall apply the reciprocal resident bidder preference described in KRS 45A.494 prior to the award of any contract.
- ~~(17)(15)~~ Governing boards may authorize the use of reverse auctions as defined in KRS 45A.070 for the procurement of goods and leases.
- (18) (a) ***Notwithstanding KRS 56.070, the governing board may obtain private insurance to cover any state property in the institution's possession against loss by fire and other hazards. The level of private insurance coverage shall be commensurate with or greater than the insurance coverage provided through the state fire and tornado insurance fund. An institution whose governing board elects to obtain private insurance shall notify the secretary of the Finance and Administration Cabinet at least six (6) months before terminating the institution's insurance coverage through the state fire and tornado insurance fund.***
- (b) ***No later than January 1 of each year, an institution whose governing board elects to obtain private insurance instead of insurance coverage provided through the state fire and tornado insurance fund shall certify, in writing, to the secretary of the Finance and Administration Cabinet that the property is insured in accordance with paragraph (a) of this subsection and shall attach a copy of the private insurance policy.***

➔Section 4. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;
- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

- (6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;
- (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;
- (8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;
- (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including but not limited to appropriations to the Kentucky Adult Education Program. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;
- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11)
 - (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.
 - (b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;
- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;
- (14) Establish course credit, transfer, and degree components as required in KRS 164.2951;
- (15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the

council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

- (16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
 - (a) Consistency with the institution's mission and the strategic agenda;
 - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
 - (c) Elimination of unnecessary duplication of programs within and among institutions; and
 - (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;
- (18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;
- (19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;
- (20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
- (21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
- (22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;
- (23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
- (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;
- (25)
 - (a) Develop in cooperation with each public university and the Kentucky Community and Technical College System a comprehensive orientation and education program for new members of the council and the governing boards and continuing education opportunities for all council and board members. For new members of the council and institutional governing boards, the council shall:
 1. Ensure that the orientation and education program comprises six (6) hours of instruction time and includes but is not limited to information concerning the roles of the council and governing board members, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget and finances, strategic plans and priorities, institutional policies and procedures, board fiduciary responsibilities, legal considerations including open records and open meetings requirements, ethical considerations arising from board membership, and the board member removal and replacement provisions of KRS 63.080;
 2. Establish delivery methods by which the orientation and education program can be completed in person or electronically by new members within one (1) year of their appointment or election;

3. Provide an annual report to the Governor and Legislative Research Commission of those new board members who do not complete the required orientation and education program; and
4. Invite governing board members of private colleges and universities licensed by the Council on Postsecondary Education to participate in the orientation and education program described in this subsection;
- (b) Offer, in cooperation with the public universities and the Kentucky Community and Technical College System, continuing education opportunities for all council and governing board members; and
- (c) Review and approve the orientation programs of each public university and the Kentucky Community and Technical College System for their governing board members to ensure that all programs and information adhere to this subsection;
- (26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
- (27) Select and appoint a president of the council under KRS 164.013;
- (28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;
- (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;
- (30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;
- (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (33) Develop a statewide policy to promote employee and faculty development ~~in all postsecondary institutions and in state and locally operated secondary area technology centers~~ through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of ~~a postsecondary public institution or a~~ state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term. ***The employee shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. The amount of tuition waived shall not exceed the cost of tuition at the institution less any state or federal grants received, which shall be credited first to the student's tuition;***
- (34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Kentucky Adult Education Program, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:
 - (a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Kentucky Adult Education Program and with other agencies and institutions;
 - (b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;
 - (c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;
 - (d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and

- (e) Administer the adult education and literacy initiative fund created under KRS 164.041;
- (35) Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council shall monitor the results on an ongoing basis;
- (36) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(1);
- (37) Cooperate with the Office for Education and Workforce Statistics and ensure the participation of the public institutions as required in KRS 151B.133;
- (38) Pursuant to KRS 63.080, review written notices from the Governor or from a board of trustees or board of regents concerning removal of a board member or the entire appointed membership of a board, investigate the member or board and the conduct alleged to support removal, and make written recommendations to the Governor and the Legislative Research Commission as to whether the member or board should be removed; and
- (39) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

➔Section 5. Whereas the state and federal background checks authorized in this Act are vital for ensuring ongoing federal education funding compliance, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 26, 2018.

CHAPTER 201

(SB 200)

AN ACT relating to the Kentucky Communications Network Authority, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. KRS 154.15-020 is amended to read as follows:

- (1) The Kentucky Communications Network Authority is established and shall be attached to the Office of the Governor. The authority shall be headed by an executive director who shall be hired by the board and approved by the Governor.
- (2) Notwithstanding KRS 42.726, the duties of the authority shall be to:
 - (a) Oversee and maintain KentuckyWired, the Commonwealth's open-access broadband network;
 - (b) Manage the master agreement establishing the public-private partnership between the Commonwealth and its private industry partner or partners. The purpose of the agreement is to design, engineer, build, operate, maintain, and upgrade the network;
 - (c) Provide network connectivity to public agencies;
 - (d) Offer access to entities eligible to utilize excess capacity on the network;
 - (e) Manage other aspects of the network and its utilization through the executive director and with oversight and input from the board established in KRS 154.15-030 and the advisory group established in this section;

- (f) Promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement the purposes of this subchapter;
 - (g) Enter into contracts with public and private entities to carry out its duties and responsibilities. A contract or other agreement involving the acquisition or disposition of a property interest by the Commonwealth shall be signed by the secretary of the Finance and Administration Cabinet. KRS Chapters 45A and 56 may require the secretary's signature on other contracts or agreements;
 - (h) Provide program management services ensuring the financial viability of the master agreement and related contracts and agreements, including grant administration, contract compliance and oversight, community planning support, and constituent services;
 - (i) Seek out, secure, and manage funding sources for the network; and
 - (j) Create an advisory group, including major stakeholders, to provide input and feedback on issues important to the user community and to the long-term sustainability of the project and the network. The advisory group shall be administratively attached to and managed by the authority. The advisory group shall include but not be limited to representatives of:
 1. The Department of Education;
 2. The Council on Postsecondary Education;
 3. The Cabinet for Economic Development;
 4. The Cabinet for Health and Family Services;
 5. The Transportation Cabinet;
 6. The Justice and Public Safety Cabinet;
 7. The Finance and Administration Cabinet;
 8. The Administrative Office of the Courts;
 9. The Legislative Research Commission;
 10. Institutions of higher education;
 11. Local government entities;
 12. Libraries;
 13. Public health care institutions or agencies;
 14. Kentucky Educational Television; and
 15. Others whose input will benefit the network.
- (3) With the approval of the board, the executive director may hire additional officers and other personnel necessary for the proper functioning of the authority, fix their salaries, and prescribe their duties. The executive director and persons employed by the authority shall not be subject to the provisions of KRS Chapter 18A.
- (4) (a) *With the approval of the board, the executive director may make, execute, and effectuate contracts, leveraging future revenues from provision of government-to-government services and sale or lease of excess capacity, to incur debt in the name of the authority and enter into financing agreements with the Commonwealth, agencies of the Commonwealth, lending institutions, investors, or investing entities.*
- (b) *The total amount of debt or financing under this subsection shall not exceed one hundred ten million dollars (\$110,000,000), and shall not leverage any future revenues committed to the repayment of any other debt, or expected to be used for the repayment of any other debt, as of the time the debt or financing is entered into.*
- (c) *Any proposed debt or financing under this subsection shall be submitted to the Capital Projects and Bond Oversight Committee for review at least fourteen (14) days prior to the committee meeting.*
- (d) *If any debt or financing is incurred under this subsection, the authority shall provide to the Legislative Research Commission:*

1. *Within thirty (30) days of entering into a debt or financing agreement, a copy of the agreement; and*
2. *On January 1, April 1, July 1, and October 1 of each year that the debt or financing is outstanding:*
 - a. *The amount of principal and interest remaining on the debt or financing;*
 - b. *The use to which the capital gained from the debt or financing has been put; and*
 - c. *Any amendments, if any, to the original debt or financing instruments or agreements.*

➔Section 2. The provisions of 2018 Regular Session HB 200/EN are amended to read as follows:

On page 29, line 11, before "**2018-19**", insert "**2017-18**";

On page 29, after line 11, insert the following:

"General Fund	2,820,200	33,387,400	34,268,300";
---------------	-----------	------------	--------------

On page 29, line 12, before "3,500,000" insert "-0-";

On page 29, after line 12, insert the following:

"TOTAL	2,820,200	36,887,400	35,768,300";
--------	-----------	------------	--------------

Adjust subsequent subtotals and totals accordingly; and

On page 29, delete lines 13 through 24 in their entirety.

➔Section 3. Whereas financing is urgently necessary for the Kentucky Communications Network Authority to complete KentuckyWired, and additional delay may cause substantial financial harm to the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 26, 2018.

CHAPTER 202

(HB 169)

AN ACT relating to gang violence prevention and declaring an emergency.

WHEREAS, it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap, to be secure and protected from fear, intimidation, or harm, caused by the criminal activities of gangs and their members; and

WHEREAS, in 2015, the Federal Bureau of Investigation's National Gang Center estimated that over 33,000 violent gangs with over 1.4 million members throughout the United States have continued to "proliferate, evolve, and develop criminal tradecrafts"; and

WHEREAS, the General Assembly finds that the citizens of Kentucky face a mounting crisis of gang-related violence perpetrated by gang members who threaten and terrorize peaceful citizens and children; and

WHEREAS, the General Assembly both recognizes and defends the right of Kentucky citizens to exercise the rights to freedom of speech and freedom of association as protected by the First Amendment of the United States Constitution; and

WHEREAS, strengthening law enforcement's ability to prevent and end the increasing gang-related violence in Kentucky will not infringe on the constitutional rights of the citizens of Kentucky and instead will facilitate an end to the increasing gang-related violence that present a clear and present danger to the Commonwealth;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

- (1) *"Criminal gang" means any alliance, network, conspiracy, or group that:*
- (a) *Consists of three (3) or more persons who have any of the following in common:*
 - 1. *Name;*
 - 2. *Identifying hand signal or sign;*
 - 3. *Colors;*
 - 4. *Symbols;*
 - 5. *Geographical location; or*
 - 6. *Leader;*
 - (b) *Has been identified or prosecuted as a gang by the Commonwealth, or another state or any federal law enforcement agency; and*
 - (c) *Has two (2) or more members who, individually or collectively, through its members or actions of its members engage in or have engaged in a pattern of criminal activity.*

"Criminal gang" does not include fraternal organizations, unions, corporations, associations, or similar entities, unless organized for the primary purpose of engaging in criminal activity; and

- (2) *"Pattern of criminal gang activity" means acts performed on separate occasions within a five (5) year period by any member or members of a criminal gang for the commission, attempt, or solicitation of, or conspiracy to commit:*
- (a) *Two (2) or more felony offenses;*
 - (b) *Three (3) or more of the misdemeanor offenses enumerated in Section 5 of this Act; or*
 - (c) *A combination of at least:*
 - 1. *One (1) felony offense; and*
 - 2. *One (1) of the misdemeanor offenses enumerated in Section 5 of this Act.*

➔SECTION 2. KRS 506.140 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) (a) *Any person who is age eighteen (18) or older is guilty of criminal gang recruitment in the first degree if he or she:*
- 1. *Solicits or entices any person under the age of fifteen (15) to join a criminal gang; and*
 - 2. *Requires as a condition of membership the commission of a crime.*
- (b) *Criminal gang recruitment in the first degree is a Class C felony for the first offense and a Class B felony for a second or subsequent offense.*
- (2) (a) *Any person over the age of eighteen (18) is guilty of criminal gang recruitment in the second degree if he or she entices or solicits another person to join a criminal gang or intimidates or threatens another person because the other person:*
- 1. *Refuses to join a criminal gang;*
 - 2. *Has withdrawn or is attempting to withdraw from a criminal gang; or*
 - 3. *Refuses to submit to a demand made by a criminal gang.*
- (b) *Criminal gang recruitment in the second degree is a Class D felony for the first offense and a Class C felony for a second or subsequent offense.*
- (3) (a) *Any person under the age of eighteen (18) is guilty of criminal gang recruitment in the third degree when he or she intentionally encourages or solicits another person to join a criminal gang.*
- (b) *Criminal gang recruitment in the third degree is a Class A misdemeanor for the first offense and a Class D felony for a second or subsequent offense.*
- (4) *It shall be no defense to prosecution under this section that the other person never intended to or did not commit the crime.*

➔Section 3. KRS 506.120 is amended to read as follows:

- (1) A person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall not do any of the following:
 - (a) Organize or participate in organizing a criminal syndicate or any of its activities;
 - (b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;
 - (c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;
 - (d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;
 - (e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;
 - (f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;
 - (g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 or 521, or KRS 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080, 18A.145, or 244.600;
 - (h) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of more than one (1) theft of retail merchandise with the intent to resell the stolen merchandise; or
 - (i) Acquire stolen retail merchandise for the purpose of reselling it where the person knew or should have known that the merchandise had been stolen.
- (2) Whoever violates this section is guilty of engaging in organized crime, which shall be a Class B felony, unless the offense involves only the theft or acquisition of retail merchandise for the purpose of reselling it, in which case it shall be a Class C felony.
- (3) As used in this section "criminal syndicate" means **three (3)**~~five (5)~~ or more persons, or, in cases of merchandise theft from a retail store for the purpose of reselling the stolen merchandise, two (2) or more persons, collaborating to promote or engage in *any of the criminal acts provided in subsection (4)(a) to (f) of this section on a continuing basis.*
- (4) ***As used in this section, "criminal gang syndicate" means three (3) or more persons acting as a part of or members of a criminal gang and collaborating to promote or engage in*** any of the following on a continuing basis:
 - (a) Extortion or coercion in violation of KRS 514.080 or 521.020;
 - (b) Engaging in, promoting, or permitting prostitution or human trafficking in violation of KRS Chapter 529;
 - (c) Any theft offense as defined in KRS Chapter 514;
 - (d) Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or Section 226 of the Constitution;
 - (e) Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237; or
 - (f) Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.
- (5) ***Any person found to have been a member of a criminal gang syndicate while engaging in the criminal acts listed in subsection (4) of this section shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.***

➔Section 4. KRS 506.150 is amended to read as follows:

- (1) To establish the existence of a "criminal gang" ***as defined in Section 1 of this Act,*** ~~as defined in KRS 506.140, any~~ competent evidence that is probative of the existence of or membership in a criminal gang shall be admissible, including ***two (2) or more*** of the following:

- (a) Self-proclamation, *either at the time of arrest or any time before or thereafter*;
 - (b) A common name, insignia, flag, or means of recognition;
 - (c) Common identifying hand or body signs, signals, *graffiti*, or code;
 - (d) A common identifying mode, style, or color of dress;
 - (e) An identifying tattoo or body marking;
 - (f) Membership, age, or other qualifications;
 - (g) Creed of belief;
 - (h) An organizational or command structure, overt or covert;
 - (i) A de facto claim of territory or jurisdiction;
 - (j) *Participation, whether present or under direction, in* an initiation ritual;
 - (k) *Directing or ordering participation in an initiation ritual*;
 - (l) A concentration or specialty;~~or~~
 - ~~(m)(4)~~ A method of operation or criminal enterprise;
 - (n) *Identification as a gang member by a reliable informant*;
 - (o) *Identification as a criminal gang member by the alleged gang member's parent or guardian*;
 - (p) *Self-proclamation of association, whether for business or enjoyment, with criminal gang members*;
 - (q) *Identification through criminal gang publications, rosters, or bylaws*;
 - (r) *Participation in some form of verbal or written communication indicating the commission of a crime by the criminal gang*;
 - (s) *Participation in photos or social media interaction with criminal gang members promoting or furthering criminal activity; or*
 - (t) *Having committed or planning to commit crime or a criminal activity to target a rival criminal gang*.
- (2) It is no defense to prosecution under *Section 2, 3, 5, or 6 of this Act*~~[KRS 506.140]~~ that:
- (a) One (1) or more members of the gang are not criminally responsible for the offense;
 - (b) One (1) or more members of the gang have been acquitted, have not been prosecuted or convicted, have been convicted of a different offense, or are under prosecution;
 - (c) A person has been charged with, acquitted, or convicted of any offense under *Section 2, 3, 5, or 6 of this Act*~~[KRS 506.140]~~;
 - (d) The participants may not know each other's identity;
 - (e) The membership in the criminal gang may change from time to time; or
 - (f) The participants may stand in a wholesaler-retailer or other arm's length arrangement in the conduct of illicit distribution or other operations.
- (3) Once the initial combination of *three (3)*~~[five (5)]~~ or more persons is formed, the number or identity of persons remaining in the gang is immaterial as long as *two (2)*~~[four (4)]~~ or more persons in the gang, excluding the defendant, are involved in a continuing pattern of criminal *gang* activity~~[as defined in KRS 506.140]~~ constituting a violation of *Section 2, 3, 5, or 6 of this Act*~~[KRS 506.140]~~.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

- (1) *If a defendant is alleged by the prosecuting attorney to have been a member of a criminal gang as defined in Section 1 of this Act, at the time of the commission of the offense, upon conviction of the offense there shall be a separate proceeding from that proceeding which resulted in the defendant's conviction if the defendant was convicted of:*
- (a) *Assault in the fourth degree under KRS 508.030;*
 - (b) *Menacing under KRS 508.050;*

- (c) *Wanton endangerment in the second degree under KRS 508.070;*
 - (d) *Terroristic threatening in the third degree under KRS 508.080;*
 - (e) *Stalking in the second degree under KRS 508.150;*
 - (f) *Unlawful imprisonment in the second degree under KRS 509.030;*
 - (g) *Criminal coercion under KRS 509.080;*
 - (h) *Criminal mischief in the second degree under KRS 512.030;*
 - (i) *Criminal mischief in the third degree under KRS 512.040;*
 - (j) *Obstructing governmental operations under KRS 519.020;*
 - (k) *Resisting arrest under KRS 520.090;*
 - (l) *Riot in the second degree under KRS 525.030;*
 - (m) *Inciting to riot under KRS 525.040;*
 - (n) *Harassment under KRS 525.070;*
 - (o) *Harassing communications under KRS 525.080;*
 - (p) *The misdemeanor offense of carrying a concealed deadly weapon in violation of KRS 527.020; or*
 - (q) *Possession of a handgun by a minor as a first offense under KRS 527.100.*
- (2) *The proceeding described in subsection (1) of this section shall be conducted before the court sitting with the jury that found the defendant guilty of the offense unless the court for good cause discharges that jury and impanels a new jury for that purpose. If the jury determines beyond a reasonable doubt that the defendant is or was a member of a criminal gang, acting for the purpose of benefitting, promoting, or furthering the interest of a criminal gang at the time he or she committed the offense, he or she shall not be released for a minimum of seventy-six (76) to ninety (90) days of the sentence imposed if the offense he or she is convicted of is classified as a Class B misdemeanor, or for a minimum of three hundred eleven (311) to three hundred sixty-five (365) days if the offense he or she is convicted of is classified as a Class A misdemeanor.*
- (3) *This section shall not apply to a juvenile unless he or she has been transferred to Circuit Court as a youthful offender pursuant to KRS 640.010 and has on at least one (1) prior separate occasion been adjudicated a public offender for a felony offense.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

- (1) *Other provisions of law notwithstanding, a person shall be penalized one (1) class more severely than provided in the penalty provision pertaining to that felony offense, unless the reclassification would move the offense to a capital offense, and shall not be released on parole until he or she has served at least eighty-five percent (85%) of the sentence imposed, if that person:*
- (a) *Is convicted of an offense classified as a felony under any provision of the Kentucky Revised Statutes and for which the commission of the felony or felonies could or did place a member of the public at risk of physical injury, serious physical injury, or death; and*
 - (b) *At the time of the commission of the offense or offenses was a member of a criminal gang as defined in Section 1 of this Act and acting for the purpose of benefitting, promoting, or furthering the interests of a criminal gang or any individual member of a criminal gang.*
- (2) *This section shall not apply to a juvenile unless:*
- (a) *He or she has been transferred to Circuit Court as a youthful offender pursuant to KRS 640.010 and has on at least one (1) prior separate occasion been adjudicated a public offender for a felony offense; or*
 - (b) *He or she is a violent offender, as defined in KRS 439.3401.*
- (3) *This section shall not apply in cases where the defendant is found to be a persistent felony offender under KRS 532.080.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

- (1) *If a person alleges that he or she was a victim of a criminal act by:*
- (a) *An organization, which at the time the incident or incidents were alleged to take place was a criminal gang as defined in Section 1 of this Act; or*
 - (b) *A person, who at time the incident or incidents were alleged to take place was a member of a criminal gang as defined in Section 1 of this Act;*
that person may bring a cause of action against the defendant or defendants for damages.
- (2) *In an action brought under this section:*
- (a) *If the plaintiff prevails, he or she shall be entitled to reasonable costs and attorney's fees;*
 - (b) *Any award of nominal damages to the plaintiff shall support an award of attorney's fees and costs; and*
 - (c) *Punitive damages as well as compensatory damages shall be awardable.*
- (3) *This section shall not be construed as repealing any provision of KRS 431.080 or any other applicable statute or any statutory or common law right of action, but shall be construed as ancillary and supplemental thereto.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

All property used in connection with or acquired by a criminal gang as defined in Section 1 of this Act or any of its members in committing, attempting to commit, or facilitating the commission of a criminal offense shall be subject to forfeiture under the same terms, conditions, and defenses and using the same process as set out in KRS 218A.405 to 218A.460.

➔Section 9. State and local law enforcement agencies throughout Kentucky are encouraged to develop a comprehensive statewide gang database to facilitate the exchange of criminal gang-related information between law enforcement agencies within and without the state, including information related to suspected criminal gang members, gang-related incidents, and other facts pertinent to the lawful investigation and prevention of gang-related violence within the state of Kentucky.

➔Section 10. This Act shall be known as the Gang Violence Prevention Act.

➔Section 11. Whereas criminal gangs are a pervasive and growing problem nationwide and are an emerging crisis within the state of Kentucky, and a delay in the implementation of this Act would severely hinder the safety of the citizens of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 26, 2018.

CHAPTER 203

(HB 265)

AN ACT amending the 2018-2020 state/executive branch budget bill, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. The provisions of 2018 Regular Session HB 200/EN are amended to read as follows:

On page 8, line 12, delete "23,379,700" and insert in lieu thereof "26,257,600", and delete "24,682,800" and insert in lieu thereof "22,825,700";

Adjust subsequent subtotals and totals accordingly;

On page 8, line 14, delete "\$808,200" and insert in lieu thereof "\$3,686,100", and delete "\$2,500,000" and insert in lieu thereof "\$642,900";

On page 8, after line 20, insert the following:

"(3) Coal Haul Road System: Notwithstanding KRS 42.455(2) and (7), no funds appropriated to the Local Government Economic Assistance Fund are required to be spent on the coal haul road system.

(4) Excess Coal Severance Tax Receipts: Notwithstanding KRS 42.450 to 42.495, 100 percent of the severance and processing taxes on coal collected annually in excess of the official estimate presented by the Office of State Budget Director shall be transferred in each fiscal year from the General Fund to the Local Government Economic Assistance Fund on a quarterly basis and appropriated for allocation in accordance with KRS 42.470(1).";

On page 8, line 23, delete "3,150,000" and insert in lieu thereof "17,923,300", and delete "4,150,000" and insert in lieu thereof "13,570,500";

Adjust subsequent subtotals and totals accordingly;

On page 10, delete lines 6 through 8 and insert in lieu thereof the following:

"(a) No funds shall be transferred to the Kentucky Coal Fields Endowment Authority;"

On page 10, line 17, after "Program;", insert "and";

On page 10, delete lines 18 through 20 in their entirety;

On page 10, line 21, delete "(f)" and insert in lieu thereof "(e)", and delete "\$808,200" and insert in lieu thereof "\$3,686,100";

On page 10, line 22, delete "\$2,500,000" and insert in lieu thereof "\$642,900";

On page 10, after line 23, insert the following:

"(3) Additional Transfer to Single-County Accounts: Notwithstanding KRS 42.450 to 42.495, an amount equal to \$7,563,400 in each fiscal year shall be transferred from the Kentucky Coal Field Endowment Fund to the Local Government Economic Development Fund Single-County Accounts and appropriated for allocation to projects.

(4) Allocation of Single-County Accounts: Notwithstanding KRS 42.450 to 42.495, all funds appropriated to Local Government Economic Fund Single-County Accounts shall be allocated to projects with the concurrence of the respective county judge/executive, state senator(s), and state representative(s) of each county. If concurrence is not achieved, the fiscal court of each county may apply for grants through the Department for Local Government pursuant to KRS 42.4588.";

On page 27, delete lines 10 through 13 in their entirety and insert in lieu thereof the following:

"(3) Dependent Subsidy for Retirees under age 65: Notwithstanding KRS 161.675(4)(a) and (b), from July 1, 2018, through June 30, 2020, for all retirees under the age of 65 who participate in the Kentucky Group Health Insurance Program through the Kentucky Teachers' Retirement System, the Kentucky Teachers' Retirement System Board of Trustees may pay from the Medical Insurance Fund the same dependent subsidy that Executive Branch agencies pay for their active employees who have similar coverage. No General Fund appropriation may be expended to pay the dependent subsidy. The dependent subsidy is not subject to KRS 161.714. If the Board of Trustees provides the dependent subsidy, the Board shall submit a report to the Interim Joint Committee on Appropriations and Revenue stating the cost of such action and providing the effect on the actuarial unfunded liability of the system by December 1 of the year preceding the Plan Year in which the dependent subsidy is provided.";

On page 30, line 10, delete "20,704,000" and insert in lieu thereof "25,496,800", and delete "20,813,500" and insert in lieu thereof "25,606,300";

Adjust subsequent subtotals and totals accordingly;

On page 31, after line 1, insert the following:

"(3) Science and Technology Program: Notwithstanding KRS 164.6017, 164.6021(1), 164.6023(8), 164.6029(1), 164.6031(3), 164.6037(1), and 164.6039(3) and (7), the Cabinet for Economic Development shall have the authority to carry out the provisions of KRS 164.6019 to 164.6041. Included in the above General Fund appropriation is \$4,792,800 in each fiscal year to support the Science and Technology Program.

(4) Carry Forward of General Fund Appropriation Balance: Notwithstanding KRS 45.229, any unexpended balance from the fiscal year 2017-2018 General Fund appropriation in the Council on Postsecondary Education, Science and Technology Program, shall not lapse and shall be appropriated to the Cabinet for Economic Development. The General Fund appropriation in fiscal year 2018-2019 to the Cabinet for Economic Development,

Science and Technology Program, shall not lapse and shall carry forward in the Cabinet for Economic Development.";

On page 31, line 6, delete "3,066,588,600" and insert in lieu thereof "3,056,500,800";

Adjust subsequent subtotals and totals accordingly;

Beginning on page 36, line 4, through page 38, line 4, delete language in its entirety and insert in lieu thereof the following:

"(20) Unmined Minerals Assessment Offset: From the General Fund appropriation set forth in 2016 Ky. Acts ch. 149, Part I, C., 1., \$7,000,000 is appropriated in fiscal year 2017-2018 to help offset the loss of revenue to the below named local school districts from a change in the assessed value of unmined minerals:

- (a) \$140,000 for Bell County Schools;
- (b) \$900 for Boyd County Schools;
- (c) \$254,800 for Breathitt County Schools;
- (d) \$100 for Carter County Schools;
- (e) \$7,900 for Clay County Schools;
- (f) \$6,200 for Daviess County Schools;
- (g) \$100 for Elliott County Schools;
- (h) \$586,500 for Floyd County Schools;
- (i) \$504,600 for Harlan County Schools;
- (j) \$78,200 for Henderson County Schools;
- (k) \$133,400 for Hopkins County Schools;
- (l) \$1,000 for Jenkins Independent Schools;
- (m) \$47,500 for Johnson County Schools;
- (n) \$1,219,500 for Knott County Schools;
- (o) \$12,400 for Knox County Schools;
- (p) \$37,000 for Lawrence County Schools;
- (q) \$508,500 for Leslie County Schools;
- (r) \$695,900 for Letcher County Schools;
- (s) \$41,400 for Magoffin County Schools;
- (t) \$298,100 for Martin County Schools;
- (u) \$700 for McCreary County Schools;
- (v) \$4,100 for McLean County Schools;
- (w) \$1,800 for Morgan County Schools;
- (x) \$90,000 for Muhlenberg County Schools;
- (y) \$89,400 for Ohio County Schools;
- (z) \$400 for Owsley County Schools;
- (aa) \$792,900 for Perry County Schools;
- (ab) \$1,149,000 for Pike County Schools;
- (ac) \$263,200 for Union County Schools;
- (ad) \$19,200 for Webster County Schools; and
- (ae) \$15,300 for Whitley County Schools.";

On page 65, after line 15, insert the following:

"Notwithstanding any other provision of this Act or KRS 61.565 or 61.702 to the contrary, the employer contribution rate for Mental Health/Mental Retardation Boards participating in the Kentucky Employees Retirement System from July 1, 2018, through June 30, 2019, shall be 49.47 percent, consisting of 41.06 percent for pension and 8.41 percent for health insurance for the board's nonhazardous duty employees. The rates above apply to wages and salaries earned for work performed during the described period regardless of when the employee is paid for the time worked.";

On page 66, after line 25, insert the following:

"Notwithstanding any other provision of this Act or KRS 61.565 or 61.702 to the contrary, the employer contribution rate for Local and District Health Departments participating in the Kentucky Employees Retirement System from July 1, 2018, through June 30, 2019, shall be 49.47 percent, consisting of 41.06 percent for pension and 8.41 percent for health insurance for the department's nonhazardous duty employees. The rates above apply to wages and salaries earned for work performed during the described period regardless of when the employee is paid for the time worked.";

On page 68, after line 25, insert the following:

"Notwithstanding any other provision of this Act or KRS 61.565 or 61.702 to the contrary, the employer contribution rate for domestic violence shelters, rape crisis centers, and child advocacy centers participating in the Kentucky Employees Retirement System from July 1, 2018, through June 30, 2019, shall be 49.47 percent, consisting of 41.06 percent for pension and 8.41 percent for health insurance for the contracted entity's nonhazardous duty employees. The rates above apply to wages and salaries earned for work performed during the described period regardless of when the employee is paid for the time worked.";

On page 80, line 14, delete "2018" and insert in lieu thereof "2019";

On page 80, line 16, delete "2018-2020" and insert in lieu thereof "2020-2022";

On page 80, line 24, delete "2018" and insert in lieu thereof "2019";

On page 85, line 12, delete "40,430,300" and insert in lieu thereof "35,637,500", and delete "40,496,500" and insert in lieu thereof "35,703,700";

Adjust subsequent subtotals and totals accordingly;

On page 85, line 20, delete "and fiscal year 2018-2019";

On page 85, line 21, after "forward", insert "and be appropriated to the Cabinet for Economic Development";

On page 97, after line 7, insert the following:

"(1) **Tourism Grants:** Included in the above Restricted Funds appropriation is \$350,000 in each fiscal year to support the Local Theater Grant Program. The Kentucky Department of Tourism shall develop and administer the Local Theater Grant Program for the purpose of supporting local theater programs which complement the statewide tourism marketing efforts. The department shall set program guidelines, timelines, funding cycles, reporting requirements, reimbursement procedures, and all other logistics and programmatic details necessary to manage and effectuate the grant program. The Local Theater Grant Program shall be open to all eligible local theater programs in Kentucky, and the department shall provide grant program information on the department's industry Web site page and send notifications for applying for funding through the local tourism offices or the designated tourism representative from each county and/or city which is named and submitted to the Kentucky Department of Tourism by the applicable county judge/executive or mayor. Any funds that are not fully expended through the corresponding annual grant cycle by approved recipients shall lapse to the credit of the Tourism, Meeting, and Convention Marketing Fund.";

On page 100, line 15, delete "87,414,100" and insert in lieu thereof "33,455,100", and delete "208,761,200" and insert in lieu thereof "195,064,500";

Adjust subsequent subtotals and totals accordingly;

On page 101, line 20, after "areas:", insert "Agricultural Development Board projects";

On page 122, after line 13, insert the following:

"029. Acquire Land/Master Plan 2010-2012 - Reauthorization (\$17,500,000 Agency Bonds, \$4,000,000 Restricted Funds, \$4,000,000 Other Funds)

(1) **Authorization:** The above authorization is approved pursuant to KRS 45.763.";

On page 162, line 3, delete "the Kentucky Housing Corporation,";

On page 166, after line 17, insert the following:

"38. Salary Exemptions: Notwithstanding KRS 64.640 and any other statute to the contrary, the Secretary of the Cabinet for Health and Family Services and the Chief Information Officer for the Commonwealth Office of Technology shall be exempt from state employee salary limitations.";

On page 167, line 15, after "Retirement", delete "Systems" and insert in lieu thereof "System";

On page 167, line 16, after "June 30, 2020," , insert "and except as otherwise provided in this Act,"; and

On page 167, line 21, after "insurance.", insert "Notwithstanding any other provision of this Act or KRS 61.565 or 61.702 to the contrary, the employer contribution rate from July 1, 2018, through June 30, 2019, shall be 49.47 percent, consisting of 41.06 percent for pension and 8.41 percent for health insurance for nonhazardous duty employees participating in the Kentucky Employees Retirement System who are employed by Mental Health/Mental Retardation Boards, Local and District Health Departments, domestic violence shelters, rape crisis centers, child advocacy centers, state supported universities and community colleges, and any other agency eligible to voluntarily cease participating in the Kentucky Employees Retirement System pursuant to KRS 61.522.".

➔Section 2. Whereas the provisions of this Act provide ongoing support for programs funded in the 2018-2020 state/executive branch budget bill, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Became law without Governor's signature April 27, 2018.

CHAPTER 204

(SB 88)

AN ACT relating to city mandates.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly shall not impose requirements on cities of any class that require city expenditures or tax levies unless:*
 - (a) *The requirements are fully funded by the General Assembly; or*
 - (b) *The requirements are contingent on the approval of the city legislative body.*
- (2) *Subsection (1) of this section shall not apply if the requirements are the result of a federal mandate, but in no case shall the requirements described in this section extend beyond the requirements of the federal mandate.*
- (3) *Nothing in this section shall affect the obligations under KRS 6.955 to 6.975, 78.510 to 78.852, or any other retirement system or plan established by Kentucky law.*

Became law without Governor's signature April 27, 2018.

CHAPTER 205

(SB 228)

AN ACT relating to athlete agents.

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

➔Section 1. KRS 164.6901 is amended to read as follows:

KRS 164.6901 to 164.6935 may be cited as the ***Revised*** Uniform Athlete Agents Act.

➔Section 2. KRS 164.6903 is amended to read as follows:

As used in KRS 164.6901 to 164.6935, unless the context requires otherwise:

(1) "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;

(2) "Athlete agent":

(a) Means an individual, ***whether registered under KRS 164.6901 to 164.6935 or not***, who:

1. ~~{enters into an agency contract with a student athlete or, }~~Directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract~~[-] or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student-athlete as a professional athlete or member of a professional sports team or organization;~~
2. ***For compensation or in anticipation of compensation related to a student-athlete's participation in athletics:***
 - a. ***Serves the student-athlete in an advisor capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or***
 - b. ***Manages the business affairs of the student-athlete by providing assistance with bills, payments, contracts or taxes; or***
3. ***In anticipation of representing a student-athlete for a purpose related to the student-athlete's participation in athletics:***
 - a. ***Gives consideration to the student-athlete or another person;***
 - b. ***Serves the student-athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or***
 - c. ***Manages the business affairs of the student-athlete by providing assistance with bills, payments, contracts, or taxes; and***

(b) ***Does not include an individual who:***

1. ***Acts solely on behalf of a professional sports team or organization; or***
2. ***Is a licensed, registered, or certified professional and offers or provides services to a student-athlete customarily provided by members of the profession, unless the individual:***
 - a. ***Also recruits or solicits the student-athlete to enter into an agency contract;***
 - b. ***For compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the student-athlete as a professional athlete or member of a professional sports team or organization; or***
 - c. ***Receives consideration for providing the services calculated using a different method than for an individual who is not a student-athlete; or***
3. ***Is a parent or guardian of a student-athlete, unless the parent or guardian for compensation, or any form of valuable consideration or reasonable expectation thereof, influences or attempts to influence the student-athlete to enter into an agency contract, or procures employment or offers, promises, attempts, or negotiates to obtain employment for the student-athlete as a professional athlete or member of a professional sports team or organization[The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization];***

- (3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male and female students, the athletic program for males or the athletic program for females, as appropriate;
- (4) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;
- (5) "Department" means the Department of Professional Licensing in the Public Protection Cabinet;
- (6) **"Educational institution" includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university;**
- (7) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;
- (8) **"Enrolled" means registered for courses and attending athletic practice or class;**
- ~~(9)(7)~~ "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association **that promotes**~~for the promotion~~ or **regulates**~~regulation of~~ collegiate athletics;
- (10) **"Interscholastic sport" means a sport played between educational institutions that are not community colleges, colleges, or universities;**
- (11) **"Licensed, registered, or certified professional" means an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession other than that of an athlete agent who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing;**
- ~~(12)(8)~~ "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;
- ~~(13)(9)~~ "Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete;
- ~~(14)(10)~~ "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
- (15) **"Recruit or solicit" means to attempt to influence the choice of an athlete agent by a student-athlete or, if the student-athlete is a minor, a parent or guardian of the student-athlete. The term does not include giving advice on the selection of a particular agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent.**
- ~~(16)(11)~~ "Registration" means registration as an athlete agent pursuant to KRS 164.6901 to 164.6935;
- (17) **"Sign" means with present intent to authenticate or adopt a record:**
 - (a) **To execute or adopt a tangible symbol; or**
 - (b) **To attach to or logically associate with the record an electronic symbol, sound, or process;**
- ~~(18)(12)~~ "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and
- ~~(19)(13)~~ "Student-athlete" means an individual who ~~engages in,~~ is eligible to **attend an educational institution and engages**~~engage~~ in, **is eligible to engage in,** or may be eligible in the future to engage in, any **interscholastic or** intercollegiate sport. **"Student-athlete" does not include**~~an individual~~ an individual~~is~~ permanently ineligible to participate in a particular **interscholastic or** intercollegiate sport **for**~~the individual is not a student athlete for purposes of~~ that sport.

➔Section 3. KRS 164.6907 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, an individual may not act as an athlete agent in this state without holding a certificate of registration under KRS ~~164.6901 to 164.6935~~~~[164.6911 to 164.6913(3)]~~.
- (2) Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:
 - (a) A student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and
 - (b) Within seven (7) days after an initial act ***that requires the individual to register*** as an athlete agent, the individual submits an application for registration as an athlete agent in this state.
- (3) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under contract.

➔Section 4. KRS 164.6909 is amended to read as follows:

- (1) An applicant for registration ***as an athlete agent*** shall submit an application for registration to the department in a form prescribed by the department. An application filed under this section is a public record. The ~~applicant~~~~[application]~~ shall be~~[in the name of]~~ an individual, and ***the application shall be***~~[except as otherwise provided in subsection (2) of this section,]~~ signed~~[or otherwise authenticated]~~ by the applicant under penalty of perjury. ***The application shall***~~[and state or]~~ contain ***at least the following***:
 - (a) The name ***and date and place of birth*** of the applicant and the ***following contact information for the applicant***:
 1. ***The*** address of the applicant's principal place of business;
 2. ***Work and mobile telephone numbers; and***
 3. ***Any means of communicating electronically, including a facsimile number, electronic mail address, and personal and business or employer Web sites;***
 - (b) The name of the applicant's business or employer, if applicable, ***including for each business or employer, the mailing address, telephone number, organization form, and the nature of the business;***
 - (c) ***Each social media account with which the applicant or the applicant's business or employer is affiliated;***
 - (d) ***Each***~~[Any]~~ business or occupation engaged in by the applicant for the five (5) years ***before***~~[next preceding]~~ the date~~[of submission]~~ of ~~the~~~~[this]~~ application, ***including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;***
 - ~~(e)~~~~[(d)]~~ A description of the applicant's:
 1. Formal training as an athlete;
 2. Practical experience as an athlete agent; and
 3. Educational background relating to the applicant's activities as an athlete agent;
 - ~~(f)~~~~[(e)]~~ ~~[The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;~~
 - ~~(f)~~ ~~[The name of each student-athlete, sport, and last known team for each individual]~~ for whom the applicant acted as an athlete agent ***within***~~[during the]~~ five (5) years ***before***~~[next preceding]~~ the date~~[of submission]~~ of the application ***or, if the student-athlete is a minor, the name of the parent or guardian of the minor, together with the student-athlete's sport and last known team;***
 - (g) The ~~name~~~~[names]~~ and ~~address~~~~[addresses]~~ of ***each person that***~~[all persons who are]~~:
 1. ***Is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent (5%) or more of the athlete agent's business if it is not a corporation***~~[With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit sharers of the business]; and~~
 2. ***Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent (5%) or more in the corporation***~~[With respect to a corporation]~~

~~employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater;~~

- (h) *A description of the status of any application by the applicant or any person named pursuant to paragraph (g) of this subsection for a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;*
 - (i) Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of, *or has charges pending for*, a crime that~~, if committed in this state,~~ would *involve sexual misconduct, has dishonesty as a necessary element,*~~be a crime involving moral turpitude~~ or *would be a felony if committed in this state,* and, *if so, identification of:*~~identify the crime~~
 - 1. *The crime;*
 - 2. *The law enforcement agency involved; and*
 - 3. *If applicable, the date of the conviction and the fine or penalty imposed;*
 - (j)~~(i)~~ Whether, *within fifteen (15) years before the date of the application, the applicant or any person named pursuant to paragraph (g) of this subsection has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence, and if so, the date and a full explanation of each proceeding;*
 - (k) *Whether the applicant or any person named pursuant to paragraph (g) of this subsection has an unsatisfied judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the application;*
 - (l) *Whether, within ten (10) years before the date of the application, the applicant or any person named pursuant to paragraph (g) of this subsection was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;*
 - (m) *Whether* there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive, or fraudulent representation;
 - (n)~~(i)~~ *Each*~~Any~~ instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate, *or professional* athletic event on a student-athlete or *a sanction on an* educational institution;
 - (o)~~(k)~~ *Each*~~Any~~ sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subsection arising out of occupational or professional conduct;~~and~~
 - (p)~~(l)~~ Whether there has been any denial of an application for, suspension or revocation of,~~or~~ refusal to renew, *or abandonment of* the registration~~or licensure~~ of the applicant or any person named pursuant to paragraph (g) of this subsection as an athlete agent in any state;
 - (q) *Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent; and*
 - (r) *If the applicant is certified or registered by a professional league or players association:*
 - 1. *The name of the league or association;*
 - 2. *The date of certification or registration, and the date of expiration of the certification or registration, if any; and*
 - 3. *If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of registration; and*
 - (s) *Any additional information required by the department.*
- (2) *Instead of proceeding under subsection (1) of this section, an individual registered*~~who has submitted an application for, and holds a certificate of, registration or licensure~~ as an athlete agent in another state, may *apply for registration as an athlete agent in this state by submitting to* ~~submit a copy of the application and~~

certificate in lieu of submitting an application in the form prescribed pursuant to subsection (1) of this section. }the department:

- (a) *A copy of the application for registration in the other state;*
 - (b) *A statement that identifies any material change in the information on the application or verifies that there is no material change in the information, signed under penalty of perjury; and*
 - (c) *A copy of the certificate of registration from the other state.*
- (3) *The department shall issue a certificate of registration to an individual who applies for registration under subsection (2) of this section if the department determines:*
- (a) ~~{accept }~~*The application and registration requirements of* ~~{the certificate from}~~ *the other state are substantially similar to or more restrictive than the Commonwealth's; and* ~~{as an application for registration in this state if the application to the other state:~~
 - (a) ~~Was submitted in the other state within six (6) months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;}~~
 - (b) *The registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state* ~~{Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and~~
 - (c) ~~Was signed by the applicant under penalty of perjury}.~~
- (4) *For purposes of implementing subsection (3) of this section, the department shall:*
- (a) *Cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than the Commonwealth's; and*
 - (b) *Exchange information, including information related to actions taken against registered agents or their registrations, with those organizations and agencies.*

➔Section 5. KRS 164.6911 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, the department shall issue a certificate of registration to an individual who complies with KRS 164.6909(1) ~~{or whose application has been accepted under KRS 164.6909(2)}.~~
- (2) The department may refuse to issue a certificate of registration if the department determines that the applicant has engaged in conduct that *significantly adversely reflects* ~~{has a significant adverse effect}~~ on the applicant's fitness to act as an athlete agent. In making the determination, the department may consider whether the applicant has:
 - (a) *Pleaded guilty or no contest to, been convicted of, or has charges pending for a crime that involves sexual misconduct, has dishonesty as a necessary element, or is a felony if committed in this state* ~~{as defined in KRS 335B.010 that directly relates to being an athlete agent};~~
 - (b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
 - (c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
 - (d) Engaged in conduct prohibited by KRS 164.6925;
 - (e) Had a registration ~~{or licensure}~~ as an athlete agent suspended, revoked, or denied *in any state*; ~~{or}~~
 - (f) Been refused renewal of registration or licensure as an athlete agent in any state;
 - (g) ~~{(f)}~~ Engaged in conduct *resulting in the imposition* ~~{the consequence}~~ of ~~{which was that}~~ a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, ~~{or}~~ intercollegiate, *or professional* athletic event ~~{was imposed}~~ on a student-athlete or *a sanction on an* educational institution; or
 - (h) ~~{(g)}~~ Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

- (3) In making a determination under subsection (2) of this section, the department shall consider:
- (a) How recently the conduct occurred;
 - (b) The nature of the conduct and the context in which it occurred; *and*
 - (c) ~~The provisions of KRS Chapter 335B, if applicable; and~~
 - (d) ~~Any other relevant conduct of the applicant.~~
- (4) An athlete agent *registered under subsection (1) of this section* may apply to renew a registration by submitting an application for renewal in a form prescribed by the department. An application filed under this section is a public record. The *applicant shall sign the application for renewal* ~~application for renewal shall be signed by the applicant~~ under penalty of perjury and *include* ~~shall contain~~ current information on all matters required in an original registration.
- (5) *An athlete agent registered under subsection (3) of Section 4 of this Act may renew the registration by proceeding under subsection (4) of this section or, if the registration in the other state has been renewed, by submitting to the department copies of the application for renewal in the other state and the renewed registration from the other state. The department shall renew the registration if the department determines* ~~An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The department shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state~~:
- (a) *The registration requirements of the other state are substantially similar to or more restrictive than the Commonwealth's* ~~Was submitted in the other state within six (6) months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current~~; *and*
 - (b) *The renewed registration has not been suspended or revoked and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state* ~~Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and~~
 - (c) ~~Was signed by the applicant under penalty of perjury.~~
- (6) A certificate of registration or a renewal of registration is valid for *two (2) years* ~~one (1) year~~.

➔Section 6. KRS 164.6913 is amended to read as follows:

- (1) The department may *limit*, suspend, revoke, or refuse to renew a registration for conduct that would have justified *refusal to issue a certificate* ~~denial~~ of registration under KRS 164.6911(2).
- (2) The department may ~~deny,~~ suspend~~,~~ *or* revoke *the* ~~or refuse to renew a certificate of~~ registration *of an individual registered under subsection (3) of Section 4 of this Act or renewed under subsection (5) of Section 5 of this Act for any reason for which the department could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration under subsection (2) of Section 5 of this Act* ~~or licensure only after proper notice and an opportunity for a hearing in accordance with KRS Chapter 13B.~~
- (3) ~~The department may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.~~

➔SECTION 7. A NEW SECTION OF KRS 164.6901 TO 164.6935 IS CREATED TO READ AS FOLLOWS:

The department may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

➔Section 8. KRS 164.6915 is amended to read as follows:

An application for registration or renewal of registration shall be accompanied by a fee in the following amount:

- (1) An initial application for registration fee determined by the department, not to exceed three hundred dollars (\$300);
- (2) ~~A~~ ~~An annual~~ renewal fee determined by the department, not to exceed three hundred dollars (\$300); ~~or~~

- (3) An application for registration fee based upon certification of registration or licensure issued by another state determined by the department, not to exceed two hundred fifty dollars (\$250); *or*
- (4) *An application for renewal of registration based on a renewal of registration in another state, not to exceed two hundred fifty dollars (\$250).*

➔Section 9. KRS 164.6917 is amended to read as follows:

- (1) An agency contract must be in a record, signed or otherwise authenticated by the parties.
- (2) An agency contract ~~shall~~ ~~must state or~~ contain:
 - (a) *A statement that the athlete agent is registered as an athlete agent in this state and a list of other states in which the agent is registered as an athlete agent;*
 - (b) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or may receive from any other source for entering into the contract or for providing the services;
 - (c)~~(b)~~ The name of any person not listed in the *athlete agent's* application for registration or renewal of registration who will be compensated because the student-athlete signed the ~~agency~~ contract;
 - (d)~~(c)~~ A description of any expenses that the student-athlete agrees to reimburse;
 - (e)~~(d)~~ A description of the services to be provided to the student-athlete;
 - (f)~~(e)~~ The duration of the contract; and
 - (g)~~(f)~~ The date of execution.
- (3) *Subject to subsection (7) of this section*, an agency contract ~~shall~~ ~~must~~ contain~~, in close proximity to the signature of the student athlete,~~ a conspicuous notice in boldface type *and* in *substantially the following form*~~[capital letters stating]~~:

WARNING TO STUDENT-ATHLETE

IF YOU SIGN THIS CONTRACT:

- (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;
- (2) IF YOU HAVE AN ATHLETIC DIRECTOR, *WITHIN 72 HOURS AFTER SIGNING THE CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST*, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR *THAT YOU HAVE ENTERED*~~[WITHIN 72 HOURS AFTER ENTERING]~~ INTO THIS CONTRACT AND *PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT*; AND
- (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A *STUDENT-ATHLETE IN YOUR SPORT*.
- (4) *An agency contract shall be accompanied by a separate record signed by the student-athlete or, if the athlete is a minor, the parent or guardian of the student-athlete acknowledging that signing the contract may result in the loss of the student-athlete's eligibility to participate in the student-athlete's sport.*
- (5) *A student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete may void an agency contract that does not conform to this section*~~[is voidable by the student athlete]. If the~~~~[a student-athlete voids an agency] contract is voided,~~~~[the student-athlete is not required to pay] any consideration received from the athlete agent under the contract to induce entering into~~~~[or to return any consideration received from the athlete agent to induce the student athlete to enter into] the contract is not required to be returned.~~
- (6)~~(5)~~ *At the time an agency contract is executed*, the athlete agent shall give~~[a record of the signed or otherwise authenticated agency contract to] the student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete a copy in a record of the contract and the separate acknowledgement required by subsection (4) of this section~~~~[at the time of execution]~~.

- (7) *If a student is a minor, an agency contract shall be signed by the parent or guardian of the minor and the notice required by subsection (3) of this section shall be revised accordingly.*

➔Section 10. KRS 164.6919 is amended to read as follows:

- (1) *In this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.*
- (2) Within seventy-two (72) hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.
- (3)~~(2)~~ Within seventy-two (72) hours after entering into an agency contract or before the next *scheduled* athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract *and the name and contact information of the athlete agent.*
- (4) *If an athlete agent enters into an agency contract with a student-athlete and the student-athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than seventy-two (72) hours after the agent knew or should have known the student-athlete enrolled.*
- (5) *If an athlete agent has a relationship with a student-athlete before the student-athlete enrolls in an educational institution and receives an athletic scholarship from the institution, the athlete agent shall notify the institution of the relationship not later than ten (10) days after the enrollment if the agent knows or should have known of the enrollment and:*
- (a) *The relationship was motivated in whole or in part by the intention of the athlete agent to recruit or solicit the athlete to enter an agency contract in the future; or*
- (b) *The athlete agent directly or indirectly recruited or solicited the student-athlete to enter an agency contract before the enrollment.*
- (6) *An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student-athlete is enrolled before the agent communicates or attempts to communicate with:*
- (a) *The student-athlete or, if the student-athlete is a minor, a parent or guardian of the student-athlete, to influence the student-athlete or parent or guardian to enter into an agency contract; or*
- (b) *Another individual to have that individual influence the student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete to enter into an agency contract.*
- (7) *If a communication or attempt to communicate with an athlete agent is initiated by a student-athlete or another individual on behalf of the student-athlete, the athlete agent shall notify in a record the athletic director of any educational institution at which the student-athlete is enrolled. The notification shall be made not later than ten (10) days after the communication or attempt.*
- (8) *An educational institution that becomes aware of a violation of KRS 164.6901 to 164.6935 by an athlete agent shall notify the department and any professional league or players association with which the institution is aware the athlete agent is licensed or registered of the violation.*

➔Section 11. KRS 164.6921 is amended to read as follows:

- (1) A student-athlete *or, if the student-athlete is a minor, the parent or guardian of the student-athlete* may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.
- (2) A student-athlete *or, if the student-athlete is a minor, the parent or guardian of the student-athlete* may not waive the right to cancel an agency contract.
- (3) If a student-athlete, *parent, or guardian* cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

➔Section 12. KRS 164.6923 is amended to read as follows:

- (1) An athlete agent shall ***create and*** retain the following records for a period of five (5) years:
 - (a) The name and address of each individual represented by the athlete agent;
 - (b) Any agency contract entered into by the athlete agent; and
 - (c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.
- (2) Records required to be retained in subsection (1) of this section are open to inspection by the department during normal business hours.

➔Section 13. KRS 164.6925 is amended to read as follows:

- (1) An athlete agent, with the intent to ~~influence~~~~[induce]~~ a student-athlete ***or, if the student-athlete is a minor, a parent or guardian of the student-athlete*** to enter into an agency contract, may not ***take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the athlete agent:***
 - (a) Give any materially false or misleading information or make a materially false promise or representation;
 - (b) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or
 - (c) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.
- (2) An athlete agent shall not intentionally ***do any of the following or encourage any other individual to do any of the following on behalf of the agent:***
 - (a) Initiate contact, ***directly or indirectly,*** with a student-athlete ***or, if the student-athlete is a minor, a parent or guardian of the student-athlete, to recruit or solicit the student-athlete, parent, or guardian to enter an agency contract*** unless registered under KRS 164.6901 to 164.6935;
 - (b) ~~Refuse or~~ Fail to ***create or*** retain or permit inspection of the records required to be retained by KRS 164.6923;
 - (c) Fail to register when required by KRS 164.6907;
 - (d) Provide materially false or misleading information in an application for registration or renewal of registration;
 - (e) Predate or postdate an agency contract; or
 - (f) Fail to notify a student-athlete ***or, if the student-athlete is a minor, a parent or guardian of the student-athlete,*** before the student-athlete, ***parent, or guardian*** signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

➔Section 14. KRS 164.6929 is amended to read as follows:

- (1) An educational institution ***or student-athlete may bring an***~~[has a right of]~~ action ***for damages*** against an athlete agent ***if the institution or student-athlete is adversely affected by an act or omission of the athlete agent in***~~[or a former student-athlete for damages caused by a]~~ violation of KRS 164.6901 to 164.6935. ***An education institution or student-athlete is adversely affected by an act or omission of the athlete agent only if, because of the act or omission, the institution or an individual who was a student-athlete at the time of the act or omission and enrolled in the institution:***
 - (a) ***Is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or***
 - (b) ***Suffers financial damage***~~[In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees].~~
- (2) Damages~~[of an educational institution]~~ under subsection (1) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of KRS 164.6901 to 164.6935 or was penalized, disqualified, or

suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

- (3) *A plaintiff that prevails in an action under this section may recover actual damages, costs, and reasonable attorney's fees. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student-athlete and shall refund any consideration paid to the agent by or on behalf of the student-athlete.*
- (4) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.
- (5)(4) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.
- (6)(5) The department may assess a civil penalty against an athlete agent not to exceed *fifty thousand dollars (\$50,000)* ~~twenty five thousand dollars (\$25,000)~~ for a violation of KRS 164.6901 to 164.6935.
- (7)(6) KRS 164.6901 to 164.6935 does not restrict rights, remedies, or defenses of any person under law or equity.

➔Section 15. KRS 164.6933 is amended to read as follows:

~~[The provisions of]KRS 164.6901 to 164.6935 *modifies, limits, or supersedes the* governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of Section 102 of the~~ Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 15 U.S.C. sec. 7001 et seq., *but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. sec. 7003(b)* ~~and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act].~~

Became law without Governor's signature April 27, 2018.

CHAPTER 206

(HB 367)

AN ACT establishing support for dyslexia.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

- (1) *There is created a dyslexia trust fund administered by the Kentucky Department of Education.*
- (2) *The dyslexia trust fund may receive appropriations, federal funds, contributions, gifts, and donations.*
- (3) *The purpose of the dyslexia trust fund shall be to finance grants to local school districts for support of students identified with the characteristics of dyslexia.*
- (4) *Notwithstanding KRS 45.229, moneys remaining in the fund at the close of a fiscal year shall not lapse but shall carry forward into the succeeding fiscal year. Interest earned on any moneys in the fund shall accrue to the fund. Amounts from the fund shall be disbursed and expended in accordance with this section.*
- (5) *The Department of Education shall submit on an annual basis a report detailing all expenditures under this section to the Kentucky Board of Education and the General Assembly.*

➔Section 2. This Act takes effect January 1, 2019.

Signed by Governor April 26, 2018.

CHAPTER 207

(HB 487)

AN ACT relating to fiscal matters and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established in the State Treasury a trust and agency account to be known as the Volkswagen settlement fund. The fund shall consist of moneys designated to the Commonwealth from that settlement.*
- (2) *The fund shall be administered by the Energy and Environment Cabinet.*
- (3) *Notwithstanding KRS 45.229, fund amounts not expended at the close of the fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (4) *Any interest earned from moneys deposited in the fund shall become a part of the fund and shall not lapse.*

➔Section 2. KRS 224.50-868 is amended to read as follows:

- (1) (a) 1. *Prior to July 1, 2018~~[Until June 30, 2018]~~, a person purchasing a new motor vehicle tire in Kentucky shall pay to the retailer a one dollar (\$1) fee at the time of the purchase of that tire. **The fee shall not be subject to the Kentucky sales tax.***
2. *Beginning July 1, 2018, but prior to July 1, 2020, a fee is hereby imposed upon a retailer at the rate of two dollars (\$2) for each new motor vehicle tire sold in Kentucky. The fee shall be subject to the Kentucky sales tax.*
3. *A retailer may pass the fee imposed by this paragraph on to the purchaser of the new tire.*
- (b) A new tire is a tire that has never been placed on a motor vehicle wheel rim, but it is not a tire placed on a motor vehicle prior to its original retail sale or a recapped tire.
- (c) The term "motor vehicle" as used in this section shall mean "motor vehicle" as defined in KRS 138.450.~~[The fee shall not be subject to the Kentucky sales tax.]~~
- (2) When a **retailer sells**~~[person purchases]~~ a new motor vehicle tire in Kentucky to replace another tire, the tire that is replaced becomes a waste tire subject to the waste tire program. **The retailer shall encourage the purchaser of the new tire**~~[person purchasing the new motor vehicle tire shall be encouraged by the retailer]~~ to leave the waste tire with the retailer or meet the following requirements:
 - (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);
 - (b) Deliver the waste tire to a person registered in accordance with the waste tire program; or
 - (c) Reuse the waste tire for its original intended purpose or an agricultural purpose.
- (3) (a) A retailer shall report to the Department of Revenue on or before the twentieth day of each month the number of new motor vehicle tires sold during the preceding month and the number of waste tires received from customers that month.
- (b) The report shall be filed on forms and contain information as the Department of Revenue may require.
- (c) The retailer shall **be allowed to retain an amount equal to five percent (5%) of the fees due, provided the amount due is not delinquent at the time of payment**~~[remit with the report ninety five percent (95%) of the fees collected for the preceding month and may retain a five percent (5%) handling fee]~~.
- (4) A retailer shall:
 - (a) Accept from the purchaser of a new tire, if offered, for each new motor vehicle tire sold, a waste tire of similar size and type; and
 - (b) Post notice at the place where retail sales are made that state law requires:
 1. The retailer to accept, if offered, a waste tire for each new motor vehicle tire sold and that a person purchasing a new motor vehicle tire to replace another tire shall comply with subsection (2) of this section; ~~and~~~~[.]~~

2. ~~*The two dollar (\$2) new tire fee is*~~ *the notice shall also include the following wording: "State law requires a new tire buyer to pay one dollar (\$1) for each new tire purchased. The money is collected and used by the state to oversee the management of waste tires, including cleaning up abandoned waste tire piles and preventing illegal dumping of waste tires."*
- (5) A retailer shall comply with the requirements of the recordkeeping system for waste tires established by KRS 224.50-874.
- (6) A retailer shall transfer waste tires only to a person who presents a letter from the cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid waste disposal facility permit issued by the cabinet, unless the retailer is delivering the waste tires to a destination outside Kentucky and the waste tires will remain in the retailer's possession until they reach that destination.
- (7) The cabinet shall, in conjunction with the Waste Tire Working Group, develop the informational fact sheet to be made publicly available on the cabinet's Web site and available in print upon request. The fact sheet shall identify ways to properly dispose of the waste tire and present information on the problems caused by improper waste tire disposal.

➔Section 3. KRS 157.621 is amended to read as follows:

- (1) In addition to the levy required by KRS 157.440(1)(b) to participate in the Facilities Support Program of Kentucky, local school districts that have made the levy required by KRS 157.440(1)(b) are authorized to levy the following additional equivalent rates to support debt service, new facilities, or major renovations of existing school facilities, which levies shall not be subject to recall under any provision of the Kentucky Revised Statutes, or to voter approval under the provisions of KRS 157.440(2):
 - (a)
 1. Prior to April 24, 2008, local school districts that have experienced student population growth during a five (5) year period may levy an additional five cents (\$0.05) equivalent rate for debt service and new facilities. The tax rate levied by the district under this provision shall not be equalized by state funding, except as provided in paragraph (b) of this subsection. Any levy imposed under this paragraph prior to April 24, 2008, by a local school district shall continue until removed by the local school district.
 2. A local school district shall meet the following criteria in order to levy the tax provided in subparagraph 1. of this paragraph:
 - a. Growth of at least one hundred fifty (150) students in average daily attendance and three percent (3%) overall growth for the five (5) preceding years;
 - b. Bonded debt to the maximum capability of at least eighty percent (80%) of capital outlay from the Support Education Excellence in Kentucky funding program, all revenue from the local facility tax, and all receipts from state equalization on the local facility tax;
 - c. Current student enrollment in excess of available classroom space; and
 - d. A local school facility plan that has been approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission;
 - (b)
 1. In addition to the levy authorized by paragraph (a) of this subsection, a local school district may levy an additional five cents (\$0.05) equivalent rate under the same terms and conditions established by paragraph (a) of this subsection beginning in fiscal year 2003-2004 if the levy was made prior to April 24, 2008, and if the local school district:
 - a. Levied the five cents (\$0.05) equivalent rate authorized by paragraph (a) of this subsection; and
 - b. Still meets the requirements established by paragraph (a)2. of this subsection.
 2. Any school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph 1. of this paragraph shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in fiscal year 2003-2004. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b).
 3. Any levy imposed under this paragraph prior to April 24, 2008, by a local school district shall continue until removed by the local school district; and

- (c) 1. A local school district that meets the following conditions may levy an additional five cents (\$0.05) equivalent rate on and after April 24, 2008:
 - a. The local school district is located in a county that will have more students as a direct result of the new mission established for Fort Knox by the Base Realignment and Closure (BRAC) 2005 issued by the United States Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990, Pub. L. No. 100-526, Part A of Title XXIX of 104 Stat. 1808, 10 U.S.C. sec. 2687 note; and
 - b. The commissioner of education has determined, based upon the presentation of credible data, that the projected increased number of students is sufficient to require new facilities or the major renovation of existing facilities to accommodate the new students, and has approved the imposition of the additional levy.
 - 2. Any local school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph 1. of this paragraph, and that has not received equalization funding under subsection (2) or (3) of this section, shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in the fiscal year following the fiscal year in which the levy authorized by subparagraph 1. of this paragraph is imposed. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b).
 - 3. Any levy imposed under this paragraph by a local school district shall continue until removed by the local school district.
- (2) (a) Any local school district that, prior to April 27, 2016, levied an equivalent rate that:
- 1. Was subject to recall at the time it was levied; and
 - 2. Included a rate of at least five cents (\$0.05) equivalent rate for the purpose of debt service for school construction or major renovation of existing school facilities;
- shall be eligible for retroactive equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in fiscal year 2003-2004, subject to the fiscal condition of the Commonwealth and the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b).
- (b) It is the intent of the General Assembly that for levies described in this subsection that are imposed on or after April 27, 2016, equalization funds, if provided by the General Assembly, shall terminate upon the earlier of June 30, 2038, or the date the bonds for the local school district supported by this equalization funding are retired. Equalization shall be subject to the fiscal condition of the Commonwealth and the provision of funding by the General Assembly.
- (3) Any local school district that:
- (a) Levied an equivalent tax rate as of April 24, 2008, that included at least ten cents (\$0.10) that was devoted to building purposes, or that had debt service corresponding to a ten cents (\$0.10) equivalent rate;
 - (b) Did not receive equalized growth funding pursuant to subsection (1)(b)2. of this section; and
 - (c) Has been approved by the commissioner of education;
- shall be eligible for equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in fiscal year 2005-2006, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b). Equalization funds shall be available to a local school district pursuant to this subsection until the earlier of June 30, ~~2038~~~~2025~~, or the date the bonds for the local school district supported by this equalization funding are retired.
- (4) (a) Notwithstanding any other provision of this section, any local school district receiving equalization funding prior to April 27, 2016, related to an equivalent rate levy described in subsection (1), (2), (3), or (5) of this section shall continue to receive the equalization funding related to the applicable equivalent rate levy, subject to the limitations established by subsections (1), (2), (3), and (5) of this section, and subject to the fiscal condition of the Commonwealth and the provision of funding by the General

Assembly, until amended by subsequent action of the General Assembly. A local school district described in this paragraph shall not be eligible to receive equalization for any additional equivalent rate levies made by it on or after April 27, 2016.

- (b) Notwithstanding any other provision of this section, any local school district that has imposed an equivalent rate levy described in subsection (1)(a) or (b) or (2) of this section prior to April 27, 2016, that qualifies for equalization but that has not yet received equalization funding shall be eligible for equalization funding as provided in subsection (1)(a) or (b) or (2) of this section, subject to the provision of funding by the General Assembly.
 - (c) On and after April 24, 2008, a local school district not included in paragraph (a) or (b) of this subsection shall be prohibited from imposing an equivalent rate levy under the provisions of subsection (1)(a) or (b) of this section, and shall not be eligible for equalization funding under the provisions of this section.
 - (d) On and after April 24, 2008, a local school district meeting the requirements of subsection (1)(c) of this section may impose the levy authorized by subsection (1)(c) of this section, and shall qualify for equalization as provided in subsection (1)(c) of this section, subject to the provision of funding by the General Assembly.
- (5) (a) Any local school district that:
- 1. Had school facilities classified as Category 5 on May 18, 2010, by the Kentucky Department of Education; and
 - 2. Levied an additional five cents (\$0.05) equivalent tax rate prior to April 27, 2016, for debt service, new construction, and major renovation beyond the five cents (\$0.05) equivalent tax rate required by KRS 157.440(1)(b), except as provided in paragraph (b) of this subsection;
- shall be eligible for equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in the fiscal year following the fiscal year in which the levy was imposed. This levy shall be subject to the recall provisions of KRS 132.017.
- (b) School districts that levied a five cents (\$0.05) equivalent tax rate for debt service, new construction, and major renovation, beyond the rate required by KRS 157.440(1)(b) prior to May 18, 2010, shall not be required to levy an additional tax to receive the equalization funds provided in paragraph (a) of this subsection.
 - (c) If the school district utilizes the equalization funds to support a bond issue for construction purposes, equalization funds shall be provided until the earlier of twenty (20) years or date the bonds are retired.
 - (d) In the event that a school district receives funding pursuant to this subsection to support construction of a new school facility and subsequently, as a result of litigation, receives funding for the same facility for which state funds were provided, that school district shall reimburse the Commonwealth an amount equal to the amount provided under paragraph (a) of this subsection. Any funds received in this manner shall be deposited in the budget reserve trust fund account established in KRS 48.705.

➔Section 4. KRS 158.441 is amended to read as follows:

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

- (1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs;
- (2) "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed:
 - (a) Through a contract between a local law enforcement agency and a school district; **or**
 - (b) ***Through a contract as secondary employment for an officer, as defined in KRS 16.010, between the Department of Kentucky State Police and a school district; and***

- (3) "School security officer" means a person employed by a local board of education who has been appointed a special law enforcement officer pursuant to KRS 61.902 and who has specialized training to work with youth at a school site.

➔Section 5. KRS 157.410 is amended to read as follows:

For each school year the Finance and Administration Cabinet, on the certification of the chief state school officer, shall draw warrants on the State Treasurer for the amount of the public school fund due each district. Checks shall be issued by the State Treasurer and transmitted to the Department of Education or electronically transferred for distribution to the proper officials of the school districts when the districts have fully complied with the school laws and administrative regulations of the Kentucky Board of Education. The chief state school officer shall determine on or before August 15 of each year the tentative allotment of school funds to which each district is entitled under the provisions of KRS 157.310 to 157.440. On July 1, August 1, and September 1, of each fiscal year, one-twelfth (1/12) of the prior year's allotment minus the capital outlay shall be paid each school district. On the first of each month thereafter until the final calculation is completed, one-twelfth (1/12) of each district's share of the tentative calculation minus capital outlay shall be distributed. On or before ~~March~~~~May~~ 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

➔Section 6. KRS 160.463 is amended to read as follows:

- (1) The school board of each public school system~~[in any county having 300,000 or more inhabitants]~~ shall direct its superintendent to publish ***the complete annual financial statement and the school report card***~~[, in full,]~~ annually~~;~~~~]~~
- (a) In the newspaper of the largest general circulation in the county;~~]~~
- (b) ***Electronically on a Web site of the school district; or***
- (c) ***By printed copy at a prearranged site at the main branch of the public library within the school district.***
- (2) ***If publication on a Web site of the school district or by printed copy at the public library is chosen, the superintendent shall be directed to publish notification in the newspaper of the largest circulation in the county as to the location where the document can be viewed by the public.***
- (3) ***The notification shall include the address of the library or the electronic address of the Web site where the documents can be viewed***~~[the annual financial statements of the school system audited by certified public accountants or an accountant approved by the State Department of Education].~~
- (4) Each system's financial statements shall be prepared and presented on a basis consistent with that of the other systems.

➔Section 7. KRS 160.431 is amended to read as follows:

- (1) The local district superintendent shall appoint a finance officer who shall be responsible for the cash, investment, and financial management of the school district.
- (2) (a) A person initially employed as a school finance officer on or after July 1, 2015, shall obtain certification from the Department of Education prior to holding the position and entering the duties of the position of school finance officer.
- (b) The Kentucky Board of Education shall promulgate administrative regulations to prescribe the criteria and procedures to be used in the certification process for a school finance officer.
- (c) The administrative regulations promulgated under this subsection shall specify:
1. The initial qualification requirements for school finance officer certification;
 2. The certification application and appeal process; and
 3. The certification renewal process.
- (3) The school finance officer shall be required to complete forty-two (42) hours of continuing education every two (2) years from a provider approved by the Department of Education. The Kentucky Board of Education shall promulgate administrative regulations to identify and prescribe the criteria for fulfilling the requirements of this subsection. The administrative regulations shall specify:

- (a) The topics of continuing education;
 - (b) Qualifications for continuing education providers;
 - (c) Consequences for failure to meet the continuing education requirement; and
 - (d) Requirements for reinstatement of school finance officer certification.
- (4) (a) The finance officer shall present a detailed monthly financial report for board approval to include the previous month's revenues and expenditures of the district. The monthly report shall be posted on the district's Web site for a minimum of six (6) months after its approval.
- (b) Within six (6) months following the end of each fiscal year, the finance officer shall submit to the Kentucky Department of Education a detailed annual financial report to include the district's total assets, liabilities, revenues, and expenditures. The annual report shall be posted on the district's Web site and department's Web site for a minimum of two (2) years.
- (c) 1. The Department of Education shall review each district's annual financial report and shall provide, within two (2) months of receipt, the local board of education a written report indicating the financial status of the district. The department's written report shall be posted on the department's Web site and the district's Web site for a minimum of two (2) years.
2. The commissioner of education shall annually present to the Interim Joint Committee on Education a copy of the department's written report for each district.
- (d) Nothing in this subsection shall lessen the obligation of a school district to publish its financial statements in accordance with the provisions of **Section 6 of this Act**~~[KRS 424.220]~~.

➔Section 8. KRS 424.220 is amended to read as follows:

- (1) Excepting officers of a city of the first class or a consolidated local government, a county containing such a city or consolidated local government, a public agency of such a city, consolidated local government, or county, or a joint agency of such a city, consolidated local government, and county, or of a school district of such a city, consolidated local government, or county, and excepting officers of a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census or an urban-county government, every public officer of any~~[school district]~~ city, consolidated local government, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, consolidated local government, county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. Pursuant to subsections (2) and (3) of KRS 91A.040, each city with a population of less than one thousand (1,000) based upon the most recent federal decennial census shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.
- (2) The statement shall show:
- (a) The total amount of funds collected and received during the fiscal year from each individual source; and
 - (b) The total amount of funds disbursed during the fiscal year to each individual payee. The list shall include only aggregate amounts to vendors exceeding one thousand dollars (\$1,000).
- (3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including but not limited to road department, jails, solid waste, public safety, and administrative personnel.
- (4) ***The financial reporting and publishing requirements for a school district are provided in Section 6 of this Act***~~[The amount of salaries paid to all teachers shall be shown as a lump sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump sum expenditures by category, including but not limited to administrative, maintenance, transportation, and food service. The local board of education and the fiscal court shall have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under~~

~~KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees}.~~

- (5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.
- (6)
 - (a) The officer shall, except in a city publishing its audit in accordance with KRS 91A.040(6), within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts.
 - (b) The appropriate officer of a city that has not conducted an annual audit under the provisions of KRS 91A.040(2) or (3) may publish a legal display advertisement meeting the requirements of subsection (7)(b) of this section which shall satisfy the publication requirements set out in paragraph (a) of this subsection.
- (7) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of a city, including the appropriate officer of any municipally owned electric, gas, or water system, shall elect to satisfy the requirements of subsection (6) of this section by:
 - (a) Publishing an audit report in accordance with KRS 91A.040(6); and
 - (b) Publishing a legal display advertisement of not less than six (6) column inches in a newspaper qualified under KRS 424.120 that the statement required by subsection (1) of this section has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio and television station which has on file with the city a written request to be provided a statement. The advertisement shall be published within ninety (90) days after the close of the fiscal year.
- (8) The appropriate officer of a county shall satisfy the requirements of subsection (6) of this section by publishing the county's audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with KRS 91A.040(6).

➔Section 9. KRS 278.020 is amended to read as follows:

- (1) (a) No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except:
 1. Retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business; *or*
 2. *A water district created under KRS Chapter 74 or a water association formed under KRS Chapter 273 that undertakes a waterline extension or improvement project if the water district or water association is a Class A or B utility as defined in the uniform system of accounts established by the commission according to KRS 278.220 and:*
 - a. *The water line extension or improvement project will not cost more than five hundred thousand dollars (\$500,000); or*
 - b. *The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring commission approval as required by KRS 278.300.*

In either case, the water district or water association shall not, as a result of the water line extension or improvement project, increase rates to its customers;~~[-]~~

until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

- (b) Upon the filing of an application for a certificate, and after any public hearing which the commission may in its discretion conduct for all interested parties, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part, except that the commission shall not refuse or modify an application submitted under KRS 278.023 without consent by the parties to the agreement.

- (c) The commission, when considering an application for a certificate to construct a base load electric generating facility, may consider the policy of the General Assembly to foster and encourage use of Kentucky coal by electric utilities serving the Commonwealth.
 - (d) The commission, when considering an application for a certificate to construct an electric transmission line, may consider the interstate benefits expected to be achieved by the proposed construction or modification of electric transmission facilities in the Commonwealth.
 - (e) Unless exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.
- (2) For the purposes of this section, construction of any electric transmission line of one hundred thirty-eight (138) kilovolts or more and of more than five thousand two hundred eighty (5,280) feet in length shall not be considered an ordinary extension of an existing system in the usual course of business and shall require a certificate of public convenience and necessity. However, ordinary extensions of existing systems in the usual course of business not requiring such a certificate shall include:
 - (a) The replacement or upgrading of any existing electric transmission line; or
 - (b) The relocation of any existing electric transmission line to accommodate construction or expansion of a roadway or other transportation infrastructure; or
 - (c) An electric transmission line that is constructed solely to serve a single customer and that will pass over no property other than that owned by the customer to be served.
- (3) Prior to granting a certificate of public convenience and necessity to construct facilities to provide the services set forth in KRS 278.010(3)(f), the commission shall require the applicant to provide a surety bond, or a reasonable guaranty that the applicant shall operate the facilities in a reasonable and reliable manner for a period of at least five (5) years. The surety bond or guaranty shall be in an amount sufficient to ensure the full and faithful performance by the applicant or its successors of the obligations and requirements of this chapter and of all applicable federal and state environmental requirements. However, no surety bond or guaranty shall be required for an applicant that is a water district or water association or for an applicant that the commission finds has sufficient assets to ensure the continuity of sewage service.
- (4) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.
- (5) No utility shall apply for or obtain any franchise, license, or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.
- (6) No person shall acquire or transfer ownership of, or control, or the right to control, any utility under the jurisdiction of the commission by sale of assets, transfer of stock, or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.
- (7) No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust, or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission. Any acquisition of control without prior authorization shall be void and of no effect. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a utility, whether through the ownership of voting securities, by effecting a change in the composition of the board of directors, by contract or otherwise. Control shall be presumed to exist if any individual or entity, directly or indirectly, owns ten percent (10%) or more of the voting securities of the utility. This presumption may be rebutted by a showing that ownership does not in fact confer control. Application for any approval or authorization shall be made to the commission in writing, verified by oath or affirmation, and be in a form and contain the information as the commission requires. The commission shall approve any proposed acquisition when it finds that the same is to

be made in accordance with law, for a proper purpose and is consistent with the public interest. The commission may make investigation and hold hearings in the matter as it deems necessary, and thereafter may grant any application under this subsection in whole or in part and with modification and upon terms and conditions as it deems necessary or appropriate. The commission shall grant, modify, refuse, or prescribe appropriate terms and conditions with respect to every such application within sixty (60) days after the filing of the application therefor, unless it is necessary, for good cause shown, to continue the application for up to sixty (60) additional days. The order continuing the application shall state fully the facts that make continuance necessary. In the absence of that action within that period of time, any proposed acquisition shall be deemed to be approved.

- (8) Subsection (7) of this section shall not apply to any acquisition of control of any:
- (a) Utility which derives a greater percentage of its gross revenue from business in another jurisdiction than from business in this state if the commission determines that the other jurisdiction has statutes or rules which are applicable and are being applied and which afford protection to ratepayers in this state substantially equal to that afforded such ratepayers by subsection (7) of this section;
 - (b) Utility by an acquirer who directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the utility, including any entity created at the direction of such utility for purposes of corporate reorganization; or
 - (c) Utility pursuant to the terms of any indebtedness of the utility, provided the issuance of indebtedness was approved by the commission.
- (9) In a proceeding on an application filed pursuant to this section, any interested person, including a person over whose property the proposed transmission line will cross, may request intervention, and the commission shall, if requested, conduct a public hearing in the county in which the transmission line is proposed to be constructed, or, if the transmission line is proposed to be constructed in more than one county, in one of those counties. The commission shall issue its decision no later than ninety (90) days after the application is filed, unless the commission extends this period, for good cause, to one hundred twenty (120) days. The commission may utilize the provisions of KRS 278.255(3) if, in the exercise of its discretion, it deems it necessary to hire a competent, qualified and independent firm to assist it in reaching its decision. The issuance by the commission of a certificate that public convenience and necessity require the construction of an electric transmission line shall be deemed to be a determination by the commission that, as of the date of issuance, the construction of the line is a prudent investment.
- (10) The commission shall not approve any application under subsection (6) or (7) of this section for the transfer of control of a utility described in KRS 278.010(3)(f) unless the commission finds, in addition to findings required by those subsections, that the person acquiring the utility has provided evidence of financial integrity to ensure the continuity of sewage service in the event that the acquirer cannot continue to provide service.
- (11) The commission shall not accept for filing an application requesting authority to abandon facilities that provide services as set forth in KRS 278.010(3)(f) or to cease providing services unless the applicant has provided written notice of the filing to the following:
- (a) Kentucky Division of Water;
 - (b) Office of the Attorney General; and
 - (c) The county judge/executive, mayor, health department, planning and zoning commission, and public sewage service provider of each county and each city in which the utility provides utility service.
- (12) The commission may grant any application requesting authority to abandon facilities that provide services as set forth in KRS 278.010(3)(f) or to cease providing services upon terms and conditions as the commission deems necessary or appropriate, but not before holding a hearing on the application and no earlier than ninety (90) days from the date of the commission's acceptance of the application for filing, unless the commission finds it necessary for good cause to act upon the application earlier.
- (13) If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to that end the provisions are declared to be severable.

➔Section 10. KRS 150.021 is amended to read as follows:

- (1) The Department of Fish and Wildlife Resources shall constitute a department of state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner, a Fish and Wildlife Resources

Commission, the Division of Law Enforcement, and other agents and employees provided for in this chapter. The department shall enforce the laws and regulations adopted under this chapter relating to wildlife and shall exercise all powers necessarily incident thereto.

- (2) Any powers conferred by this chapter upon the Department of Fish and Wildlife Resources, the Fish and Wildlife Resources Commission, or the commissioner of the Department of Fish and Wildlife Resources, and any powers conferred by KRS Chapter 235 shall be exercised subject to the provisions of KRS Chapters 42, 45, 45A, 56, and 64, which chapters in all respects are controlling.
- (3) (a) *The Finance and Administration Cabinet shall assess the Department of Fish and Wildlife Resources each fiscal year a fee in an amount equal to five percent (5%) of the debt service associated with all phases and implementation of the capital project to replace, repair, or maintain the two (2) way radio system utilized by the Department of Kentucky State Police.*
- (b) *The fee shall be assessed on each phase of the implementation of the two (2) way radio system and shall continue to be assessed until all debt for the system has been retired.*

➔Section 11. KRS 132.285 is amended to read as follows:

- (1) (a) Except as provided in subsection (3) of this section, any city may by ordinance elect to use the annual county assessment for property situated within ~~the [such]~~ city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city.
- (b) Any city making ~~the [such]~~ election *provided in paragraph (a) of this subsection* shall notify the department ~~of Revenue~~ and property valuation administrator prior to the next succeeding assessment to be used for city levies. In such event the assessment finally determined for county tax purposes shall serve as a basis of all city levies for the fiscal year commencing on or after the county assessment date.
- (c) Each city which elects to use the county assessment shall annually appropriate and pay each fiscal year to the office of the property valuation administrator for deputy and other authorized personnel allowance, supplies, maps and equipment, and other authorized expenses of the office one-half of one cent (\$0.005) for each one hundred dollars (\$100) of assessment, ~~except [as provided],~~ that sums paid shall not be:
 1. Less than two hundred fifty dollars (\$250); ~~or [or]~~
 2. More than:
 - a. Forty thousand dollars (\$40,000) in a city having an assessment subject to city tax of less than two billion dollars (\$2,000,000,000); ~~[or]~~
 - b. Fifty thousand dollars (\$50,000) in a city having an assessment subject to city tax of ~~more than~~ two billion dollars (\$2,000,000,000) *or more, but less than three billion dollars (\$3,000,000,000); or*
 - c. *Sixty thousand dollars (\$60,000) in a city having an assessment subject to city tax of three billion dollars (\$3,000,000,000) or more.*
- (d) This allowance shall be based on the assessment as of the previous January 1.
- (e) Each property valuation administrator shall file a claim with the city for the county assessment, which shall include the recapitulation submitted to the city pursuant to KRS 133.040(2).
- (f) The city shall order payment in an amount not to exceed the appropriation authorized by this section.
- (g) The property valuation administrator shall be required to account for all moneys paid to his *or her* office by the city and any funds unexpended by the close of each fiscal year shall carry over to the next fiscal year.
- (h) Notwithstanding any statutory provisions to the contrary, the assessment dates for ~~the [such]~~ city shall conform to the corresponding dates for the county, and ~~the [such]~~ city may by ordinance establish additional financial and tax procedures that will enable it effectively to adopt the county assessment.
- (i) The legislative body of any city adopting the county assessment may fix the time for levying the city tax rate, due and delinquency dates for taxes, and any other dates that will enable it effectively to adopt the county assessment, notwithstanding any statutory provisions to the contrary.
- (j) Any such city may, by ordinance, abolish any office connected with city assessment and equalization.

- (k) Any city which elects to use the county assessment shall have access to the assessment records as soon as completed and may obtain a copy of that portion of the records which represents the assessment of property within ~~the [such]~~ city by additional payment of the cost thereof.
- (l) Once any city elects to use the county assessment, ~~that [such]~~ action cannot be revoked without notice to the department ~~of Revenue~~ and the property valuation administrator six (6) months prior to the next date as of which property is assessed for state and county taxes.
- (2) In the event any omitted property is assessed by the property valuation administrator as provided by KRS 132.310, ~~the [such]~~ assessment shall be considered as part of the assessment adopted by the city according to subsection (1) of this section.
- (3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities shall use the assessment required to be made pursuant to KRS 132.487(5).
- (4) Notwithstanding the provisions of subsection (1) of this section, each city which elects to use the county assessment for ad valorem taxes levied for 1996 or subsequent years, and which used the county assessment for ad valorem taxes levied for 1995, shall appropriate and pay to the office of the property valuation administrator for the purposes set out in subsection (1) of this section an amount equal to the amount paid to the office of the property valuation administrator in 1995, or the amount required by the provisions of subsection (1) of this section, whichever is greater.

➔Section 12. KRS 132.590 is amended to read as follows:

- (1) The compensation of the property valuation administrator shall be based on the schedule contained in subsection (2) of this section as modified by subsection (3) of this section. The compensation of the property valuation administrator shall be calculated by the Department of Revenue annually. Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.
- (2) The salary schedule for property valuation administrators provides for nine (9) levels of salary based upon the population of the county in the prior year as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the department shall, by November 1 of each year, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. The salary schedule provides four (4) steps for yearly increments within each population group. Property valuation administrators shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each property valuation administrator, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. If the county population as certified by the department increases to a new group level, the property valuation administrator's salary shall be computed from the new group level at the beginning of the next year. A change in group level shall have no affect on the annual change in step. Prior to assuming office, any person who has previously served as a property valuation administrator must certify to the Department of Revenue the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the person in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Property Valuation Administrators			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	\$45,387	\$46,762	\$48,137	\$49,513
Group II				
5,000-9,999	49,513	50,888	52,263	53,639
Group III				
10,000-19,999	53,639	55,014	56,389	57,765
Group IV				
20,000-29,999	55,702	57,765	59,828	61,891

Group V

30,000-44,999	59,828	61,891	63,954	66,017
---------------	--------	--------	--------	--------

Group VI

45,000-59,999	61,891	64,641	67,392	70,143
---------------	--------	--------	--------	--------

Group VII

60,000-89,999	66,017	68,768	71,518	74,269
---------------	--------	--------	--------	--------

Group VIII

90,000-499,999	68,080	71,518	74,957	78,395
----------------	--------	--------	--------	--------

Group IX

500,000 and up	72,206	75,644	79,083	82,521
----------------	--------	--------	--------	--------

- (3) (a) For calendar year 2000, the salary schedule in subsection (2) of this section shall be increased by the amount of increase in the annual consumer price index as published by the United States Department of Commerce for the year ended December 31, 1999. This salary adjustment shall take effect on July 14, 2000, and shall not be retroactive to the preceding January 1.
- (b) For each calendar year beginning after December 31, 2000, upon publication of the annual consumer price index by the United States Department of Commerce, the annual rate of salary for the property valuation administrator shall be determined by applying the increase in the consumer price index to the salary in effect for the previous year. This salary determination shall be retroactive to the preceding January 1.
- (c) In addition to the step increases based on service in office, each property valuation administrator shall be paid an annual incentive of six hundred eighty-seven dollars and sixty-seven cents (\$687.67) per calendar year for each forty (40) hour training unit successfully completed based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If a property valuation administrator fails without good cause, as determined by the commissioner of the Kentucky Department of Revenue, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. No property valuation administrator shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each property valuation administrator shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. This amount shall be increased by the consumer price index adjustments prescribed in paragraphs (a) and (b) of this subsection. Each training unit shall be approved and certified by the Kentucky Department of Revenue. Each unit shall be available to property valuation administrators in each office based on continuing service in that office. The Kentucky Department of Revenue shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.
- (4) Notwithstanding any provision contained in this section, no property valuation administrator holding office on July 14, 2000, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 14, 2000.
- (5) Deputy property valuation administrators and other authorized personnel may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service. The Department of Revenue may make grade classification changes corresponding to any approved for department employees in comparable positions, so long as the changes do not violate the integrity of the classification system. Subject to availability of funds, the department may extend cost-of-living increases approved for department employees to deputy property valuation administrators and other authorized personnel, by advancement in grade.
- (6) Beginning with the 1990-1992 biennium, the Department of Revenue shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. The total

sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the Department of Revenue. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

- (7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the Department of Revenue a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The Department of Revenue shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.
- (8) Each property valuation administrator may appoint any persons approved by the Department of Revenue to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the Department of Revenue and shall be subject to the approval of the Department of Revenue. The Personnel Cabinet shall provide advice and technical assistance to the Department of Revenue in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the Department of Revenue in accordance with standards of the Personnel Cabinet, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the Department of Revenue prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.
- (9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to

County Tax of:

At Least	But Less Than	Amount
----	\$100,000,000	\$0.005 for each \$100 of the first \$50,000,000 and \$0.002 for each \$100 over \$50,000,000.
\$100,000,000	150,000,000	\$0.004 for each \$100 of the first \$100,000,000 and \$0.002 for each \$100 over \$100,000,000.
150,000,000	300,000,000	\$0.004 for each \$100 of the first \$150,000,000 and \$0.003 for each \$100 over \$150,000,000.
300,000,000	----	\$0.004 for each \$100.

- (10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to

County Tax of:

At Least	But Less Than	Limit
----	\$700,000,000	\$25,000

\$700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	$\{ \text{-----} \}$ 7,500,000,000	175,000
7,500,000,000	-----	250,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

- (11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the Department of Revenue only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.
- (12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.
- (13) The provisions of this section shall apply to urban-county governments and consolidated local governments. In an urban-county government and a consolidated local government, all the rights and obligations conferred on fiscal courts or consolidated local governments by the provisions of this section shall be exercised by the urban-county government or consolidated local government.
- (14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A or when a consolidated local government is established through merger of existing city and county governments as provided by KRS Chapter 67C, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars (\$100,000) for any urban-county government or consolidated local government with an assessment subject to countywide tax of less than ~~five~~~~three~~ billion dollars ~~(\$5,000,000,000)~~~~(\$3,000,000,000)~~, one hundred ~~seventy-five~~~~twenty-five~~ thousand dollars ~~(\$175,000)~~~~(\$125,000)~~ for an urban-county government or consolidated local government with an assessment subject to countywide tax between ~~five~~~~three~~ billion dollars ~~(\$5,000,000,000)~~~~(\$3,000,000,000)~~ and ~~seven~~~~five~~ billion ~~five hundred million~~ dollars ~~(\$7,500,000,000)~~~~(\$5,000,000,000)~~, and two hundred ~~fifty~~ thousand dollars ~~(\$250,000)~~~~(\$200,000)~~ for an urban-county government or consolidated local government with an assessment subject to countywide tax in excess of ~~seven~~~~five~~ billion ~~five hundred million~~ dollars ~~(\$7,500,000,000)~~~~(\$5,000,000,000)~~. For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.
- (15) Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9) and (10) of this section, whichever is greater.

➔Section 13. KRS 210.504 is amended to read as follows:

- (1) The commission created in KRS 210.502 shall meet as often as necessary to accomplish its purpose but shall meet at least quarterly or upon the call of either co-chair, the request of four (4) or more members, or the request of the Governor.
- (2) The commission shall receive, integrate, and report the findings and recommendations of the regional planning councils established under KRS 210.506. The regional planning councils shall provide additional information or study particular issues upon request of the commission.
- (3) The commission:
 - (a) May establish work groups to develop statewide recommendations from information and recommendations received from the regional planning councils;
 - (b) May establish work groups to address issues referred to the commission; and
 - (c) Shall ensure that the regional planning councils have an opportunity to receive, review, and comment on any recommendation or product issued by a work group established under this subsection before the commission takes any formal action on a recommendation or product of a work group.
- (4) The commission shall serve in an advisory capacity to accomplish the following:
 - (a) Based on information provided under subsection (2) of this section:
 1. Assess the needs statewide of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;
 2. Assess the capabilities of the existing statewide treatment delivery system including gaps in services and the adequacy of a safety net system; and
 3. Assess the coordination and collaboration of efforts between public and private facilities and entities, including but not limited to the Council on Postsecondary Education when assessing workforce issues, and the roles of the Department for Behavioral Health, Developmental and Intellectual Disabilities and the regional community mental health centers, state hospitals, and other providers;
 - (b) Identify funding needs and related fiscal impact, including Medicaid reimbursement, limitations under government programs and private insurance, and adequacy of indigent care;
 - (c) Recommend comprehensive and integrated programs for providing mental health and substance abuse services and preventive education to children and youth, utilizing schools and community resources;
 - (d) Develop recommendations to decrease the incidence of repeated arrests, incarceration, and multiple hospitalizations of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;~~and~~
 - (e) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of persons with mental illness, alcohol and other drug abuse disorders, and dual diagnoses, family members, providers, and advocates in quality assurance efforts;
and
 - (f) ***Recommend improvements in identifying, treating, housing, and transporting prisoners in jails and juveniles with mental illness who reside in detention centers. Items to be reviewed include but are not limited to:***
 1. ***Recommendations for statutory and regulatory changes;***
 2. ***Training and treatment funding;***
 3. ***Cost-sharing proposals;***
 4. ***Housing and transportation costs;***
 5. ***Appropriate treatment sites; and***
 6. ***Training requirements for local jailers and other officers of the court who may come in contact with persons deemed mentally ill and who are incarcerated or in detention.***
- (5) The commission shall develop a comprehensive state plan that provides a template for decision-making regarding program development, funding, and the use of state resources for delivery of the most effective continuum of services in integrated statewide settings appropriate to the needs of the individual with mental

illness, alcohol and other drug abuse disorders, and dual diagnoses. The state plan shall also include strategies for increasing public awareness and reducing the stigma associated with mental illness and substance abuse disorders.

- (6) The state plan shall advise the Governor and the General Assembly concerning the needs statewide of individuals with mental illness, alcohol and other drug disorders, and dual diagnoses and whether the recommendations should be implemented by administrative regulations or proposed legislation for the General Assembly.
- (7) The commission shall develop a two (2) year work plan, beginning in 2003, that specifies goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses and efforts to reduce the stigma associated with mental illness and substance abuse disorders.
- (8) The commission shall review the plan and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.

➔Section 14. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health and Family Services, each community board for mental health or individuals with an intellectual disability shall:

- (1) Review and evaluate services for mental health or individuals with an intellectual disability provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health and Family Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;
- (2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;
- (3) Promote, arrange, and implement working agreements with other social service agencies, both public and private, and with other educational and judicial agencies;
- (4) Adopt and implement policies to stimulate effective community relations;
- (5) Be responsible for the development and approval of an annual plan and budget;
- (6) Act as the administrative authority of the community program for mental health or individuals with an intellectual disability;
- (7) Oversee and be responsible for the management of the community program for mental health or individuals with an intellectual disability in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health and Family Services;~~and~~
- (8) Comply with the provisions of KRS 65A.010 to 65A.090; *and*
- (9) ***Deliver the training recommended by Section 13 of this Act to local jailers and other officers of the court who may come in contact with persons deemed mentally ill and who are incarcerated or in detention.***

➔Section 15. KRS 164.013 is amended to read as follows:

- (1) The Council on Postsecondary Education shall set the qualifications for the position of president of the council. Except for the first president appointed under subsection (2) of this section, the council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider, interview, and propose three (3) or more candidates for the position of president. The council may seek additional names from the search firm or from other sources.
- (2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.
- (3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.

- (4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established in KRS 164.003(2).
- (5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.
- (6) (a) ~~{The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university.}~~ The council shall set the salary of the president ***at an amount no greater than the salary the president was receiving on January 1, 2012.***
 (b) ***The salary of the president***~~{which}~~ shall be exempt from state employee salary limitations as set forth in KRS 64.640.
- (7) The president shall be accorded a contract to serve for a term not to exceed five (5) years, which is renewable at the pleasure of the council.
- (8) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. All personnel positions of the Council on Higher Education, as of May 30, 1997, with the exception of the position of executive director, shall be transferred to the Council on Postsecondary Education. All personnel shall be transferred at the same salary and benefit levels. Notwithstanding the provisions of KRS 11A.040, any person employed by the Council on Higher Education prior to May 30, 1997, may accept immediate employment with any governmental entity or any postsecondary education organization or institution in the Commonwealth and may carry out the employment duties assigned by that entity, organization, or institution.
- (9) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the strategic implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.
- (10) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under KRS 164.020.
- (11) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

➔Section 16. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;
- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

- (6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;
- (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;
- (8)
 - (a) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent, ***except that the Kentucky Community and Technical College System may assess a mandatory student fee not to exceed eight dollars (\$8) per credit hour to be used exclusively for debt service on amounts not to exceed seventy-five percent (75%) of the total projects cost of the Kentucky Community and Technical College System agency bond projects included in 2014 Ky. Acts ch. 117, Part II, J., 11.***
 - (b) ***The Kentucky Community and Technical College System mandatory fee established in this subsection shall only be used for debt service on agency bond projects.***
 - (c) ***Any fee established as provided by this subsection shall cease to be assessed upon the retirement of the project bonds for which it services debt.***
 - (d) ***Prior to the issuance of any bonds, the Kentucky Community and Technical College System shall certify in writing to the secretary of the Finance and Administration Cabinet that sufficient funds have been raised to meet the local match equivalent to twenty-five percent (25%) of the total project cost;***
- (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including but not limited to appropriations to the Kentucky Adult Education Program. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;
- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11)
 - (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.
 - (b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;
- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary

system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;

- (14) Establish course credit, transfer, and degree components as required in KRS 164.2951;
- (15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;
- (16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
 - (a) Consistency with the institution's mission and the strategic agenda;
 - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
 - (c) Elimination of unnecessary duplication of programs within and among institutions; and
 - (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;
- (18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;
- (19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;
- (20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
- (21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
- (22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;
- (23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
- (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

- (25) (a) Develop in cooperation with each public university and the Kentucky Community and Technical College System a comprehensive orientation and education program for new members of the council and the governing boards and continuing education opportunities for all council and board members. For new members of the council and institutional governing boards, the council shall:
1. Ensure that the orientation and education program comprises six (6) hours of instruction time and includes but is not limited to information concerning the roles of the council and governing board members, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget and finances, strategic plans and priorities, institutional policies and procedures, board fiduciary responsibilities, legal considerations including open records and open meetings requirements, ethical considerations arising from board membership, and the board member removal and replacement provisions of KRS 63.080;
 2. Establish delivery methods by which the orientation and education program can be completed in person or electronically by new members within one (1) year of their appointment or election;
 3. Provide an annual report to the Governor and Legislative Research Commission of those new board members who do not complete the required orientation and education program; and
 4. Invite governing board members of private colleges and universities licensed by the Council on Postsecondary Education to participate in the orientation and education program described in this subsection;
- (b) Offer, in cooperation with the public universities and the Kentucky Community and Technical College System, continuing education opportunities for all council and governing board members; and
- (c) Review and approve the orientation programs of each public university and the Kentucky Community and Technical College System for their governing board members to ensure that all programs and information adhere to this subsection;
- (26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
- (27) Select and appoint a president of the council under KRS 164.013;
- (28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;
- (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;
- (30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;
- (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;
- (34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Kentucky Adult Education Program, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:
- (a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Kentucky Adult Education Program and with other agencies and institutions;

- (b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;
 - (c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;
 - (d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and
 - (e) Administer the adult education and literacy initiative fund created under KRS 164.041;
- (35) Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council shall monitor the results on an ongoing basis;
- (36) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(1);
- (37) Cooperate with the Office for Education and Workforce Statistics and ensure the participation of the public institutions as required in KRS 151B.133;
- (38) Pursuant to KRS 63.080, review written notices from the Governor or from a board of trustees or board of regents concerning removal of a board member or the entire appointed membership of a board, investigate the member or board and the conduct alleged to support removal, and make written recommendations to the Governor and the Legislative Research Commission as to whether the member or board should be removed; and
- (39) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

➔Section 17. KRS 164.5805 is amended to read as follows:

- (1) Effective July 1, 1998, the Kentucky Community and Technical College System shall be the legal successor to the postsecondary Kentucky Tech institutions and corresponding administrative units in the former Cabinet for Workforce Development and shall assume all assets and liabilities of this system, including without limitation all obligations, responsibilities, programs, staff, instructional supplies, equipment, real property, facilities, funds, and records. The Finance and Administration Cabinet shall execute the instruments necessary to transfer the real property relating to the operation of the postsecondary institutions in the Kentucky Tech System from the former Cabinet for Workforce Development to the Kentucky Community and Technical College System.
- (a) The staff positions in the former Department for Technical Education and the former Cabinet for Workforce Development whose responsibilities include support for the postsecondary institutions in the Kentucky Tech System and the school-based positions shall be transferred to the Kentucky Community and Technical College System. Selected employees of the Kentucky Tech regional offices shall be transferred and reassigned within the Kentucky Community and Technical College System. Appropriate central office functions from the Department for Technical Education shall be assigned within the system to carry out the administrative and support functions with the approval of the board of regents for the Kentucky Community and Technical College System.
 - (b) All funds related to the costs of operating the Kentucky Tech postsecondary institutions, including the administrative costs, shall be transferred to the board of regents for the Kentucky Community and Technical College System for carrying out the mission of the postsecondary technical institutions and colleges.
 - (c) Funds raised by a not-for-profit or nonprofit organization for a specific program or technical institution shall be for the exclusive use of the program or that technical institution.

- (d) The following provisions shall apply to the employees who are transferred from the former Cabinet for Workforce Development to the Kentucky Community and Technical College System, effective July 1, 1998:
1. Accumulated sick leave, compensatory time, and annual leave as of June 30, 1998, shall be transferred with each employee;
 2. Employees who have earned continuing status as defined in KRS 156.800 and employees who have earned classified status as merit system employees under KRS Chapter 18A shall be provided the same standing. Those employees who are transferred and are in the process of earning continuing status or classified status shall earn their standing based on the rules that were governing them on June 30, 1998, in their respective systems. New employees within the system shall earn status based on the new policies established by the board;
 3. Employees shall transfer into the new system at a salary not less than their previous salary as of June 30, 1998;
 4. Employees shall be provided retirement plans in the same system where they are currently enrolled: the Kentucky Teachers' Retirement System under KRS 161.220 or the Kentucky Employees Retirement System under KRS 61.525;
 5. Employees shall be provided a health benefits package that is available or equivalent to that provided to other state or university employees; and
 6. Employees shall be provided life insurance coverage and optional insurance or investment programs.
- (e) The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 151B in effect on June 30, 1998, to govern the certified and equivalent employees who transfer from the former Cabinet for Workforce Development, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. The board shall adopt rules that are the same as the administrative regulations under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred classified employees, except that the rules shall provide that all grievances and appeals shall be to the board of regents or to the board's designee. A transferred employee shall have the option to elect to participate in the new Kentucky Community and Technical College personnel system in lieu of the rules under which the employee transferred. An employee who elects to accept this option may not return to the previous personnel policy. An employee shall have the right to exercise this option at any time.
- (2) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System shall be governed by the rules and regulations established by the board, *except that no housing allowance shall be provided for the president of the Kentucky Community and Technical College System.*

➔SECTION 18. A NEW SECTION OF KRS 153.210 TO 153.235 IS CREATED TO READ AS FOLLOWS:

An entity involved in producing or financing arts on a local or statewide basis, since the inception of fiscal year 2004-2005, which received a total of twenty-five thousand dollars (\$25,000) or less as a result of appropriations or grants from state or local governmental units, shall be exempt from the requirements of:

- (1) **KRS 61.805 to 61.850; and**
- (2) **KRS 61.870 to 61.884.**

➔Section 19. KRS 151.611 is amended to read as follows:

- (1) A Stream Restoration and Mitigation Authority may be established for any HUC 10 watershed in the Commonwealth. Each authority formed under this section shall be a public body corporate and politic with the authority to:
 - (a) Sue and be sued;
 - (b) Enter into contracts with public and private individuals and corporations and engage in cooperative agreements with federal, state, and local governments or agencies, utilities, special districts, and nonprofit organizations for the performance of its duties and functions under KRS 151.610 to 151.615;

- (c) Employ personnel as needed, as its fiscal resources may allow, and use the services of volunteers individually or through agreement with governmental agencies, nonprofit organizations, or foundations;
 - (d) Receive and expend funds from any source, including but not limited to private donations, charitable contributions, public grants, 404 In-lieu Fee Program, and appropriations from the General Assembly; and
 - (e) Acquire, sell, and hold real interests in property.
- (2) Nothing in KRS 151.610 to 151.615 shall be construed to empower or authorize an authority established under KRS 151.610 to 151.615 to exercise regulatory powers with respect to water resources or water quality. An authority established under KRS 151.610 to 151.615 shall not be vested with the power of eminent domain.
- (3) It is the preference of the General Assembly that funds contributed by a permittee under a Section 404 Permit into an in-lieu fund for a project designed for stream restoration and mitigation be utilized within the watershed where the adverse effects occur. The General Assembly recognizes that conservation and protection of the water resources of the Commonwealth, including streams, rivers, wetlands, and riparian habitats, may involve, in addition to restoration and enhancement of aquatic and riparian habitat, proper management of wastewater and stormwater, and abatement of pre-existing sources of pollution. Where an authority has been qualified by the USACE to manage an in-lieu fee or other compensatory mitigation arrangement that is approved after July 15, 2008, under Section 404, and to the extent that the USACE and the Mitigation Review Team has approved the use of such funds for elimination of pre-existing sources of pollution, the authority may expend a portion of the funds for those purposes, provided that the:
- (a) Funds spent on water quality improvements are a component of a stream or wetland restoration plan for replacement of aquatic resource functions and values;~~and~~
 - (b) Project has been reviewed and approved by the USACE and the Division of Water as being consistent with Sections 404 and 401 of the Clean Water Act; **and**
 - (c) ***In-lieu fees shall be available statewide, to all one hundred twenty (120) counties, subject to federal and state regulatory requirements.***
- (4) Nothing in KRS 151.610 to 151.615 shall preclude the authority, when acting as an approved qualified organization managing an in-lieu fee arrangement approved after July 15, 2008, from combining funding from other sources with in-lieu fees in order to achieve efficiencies in stream restoration or mitigation.

➔Section 20. KRS 61.637 is amended to read as follows:

- (1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.
- (2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.
- (3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.
- (4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.
- (b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.

- (c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
 - 1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;
 - 2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
 - 3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;
 - 4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691; and
 - 5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.
- (5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).
- (6)
 - (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.
 - (b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.
- (7)
 - (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.
 - (b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.
- (8) A retired member or his employer shall notify the retirement system if he has accepted employment or is serving as a volunteer with an employer that participates in the retirement system from which the member retired. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.

- (9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the systems to confirm the individual's employment or volunteer status.
- (10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.
- (11)
 - (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.
 - (b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.
- (12)
 - (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.
 - (b) The job descriptions and statements of duties shall be filed with the retirement office.
- (13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:
 - (a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;
 - (b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began;
 - (c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691;
 - (d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and
 - (e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.
- (14)
 - (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.
 - (b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.
- (15)
 - (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

- (b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.
- (16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to purchase prior to his initial retirement.
- (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:
- (a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
 - 1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
 - 2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
 - (b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
 - 1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;
 - 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
 - 3. Except as provided by KRS 70.291 to 70.293 and 95.022 *and except for any retiree employed as a school resource officer as defined by KRS 158.441*, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
 - 4. Except as provided by KRS 70.291 to 70.293 and 95.022 *and except for any retiree employed as a school resource officer as defined by KRS 158.441*, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, Local school boards shall not be required to pay the reimbursement required by this

subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;

- (c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
 - 1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and
 - 2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
 - 1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;
 - 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
 - 3. Except as provided by KRS 70.291 to 70.293 and 95.022 *and except for any retiree employed as a school resource officer as defined by KRS 158.441*, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
 - 4. Except as provided by KRS 70.291 to 70.293 and 95.022 *and except for any retiree employed as a school resource officer as defined by KRS 158.441*, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;
- (e) Notwithstanding paragraphs (a) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) to (d) of this subsection if:

1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;
2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;
3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and
4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twenty-four (24) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) to (d) of this subsection for the period of volunteer service; and

- (f) Notwithstanding any provision of this section, any mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System, shall not be:
 1. Required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the Kentucky Employees Retirement System or the State Police Retirement System; or
 2. Subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body.

➔Section 21. KRS 70.292 is amended to read as follows:

- (1) A **county police department or** county sheriff's office in the Commonwealth of Kentucky may employ police officers who have retired under the State Police Retirement System, Kentucky Employees Retirement System, or the County Employees Retirement System as provided by KRS 70.291 to 70.293.
- (2) An individual employed under KRS 70.291 to 70.293 shall have:
 - (a)
 1. Participated in the Law Enforcement Foundation Program fund under KRS 15.410 to 15.515; or
 2. Retired as a commissioned officer pursuant to KRS Chapter 16;
 - (b) Retired with at least twenty (20) years of service credit;
 - (c) Been separated from service for the period required by KRS 61.637 so that the member's retirement is not voided;
 - (d) Retired with no administrative charges pending; and
 - (e) Retired with no pre-existing agreement between the individual and the **county police department or the** sheriff's office prior to the individual's retirement for the individual to return to work for the **county police department or the** sheriff's office.

➔Section 22. KRS 70.293 is amended to read as follows:

- (1) Individuals employed under KRS 70.291 to 70.293 shall:
 - (a) Serve for a term not to exceed one (1) year. The one (1) year employment term may be renewed annually at the discretion of the employing **county police department or** sheriff's office;
 - (b) Receive compensation according to the standard procedures applicable to the employing **county police department or** sheriff's office; and

- (c) Be employed based upon need as determined by the *county police department or the* employing sheriff's office.
- (2) Notwithstanding any provisions of KRS 16.505 to 16.652, 18A.225 to 18A.2287, 61.510 to 61.705, or 78.510 to 78.852 to the contrary:
 - (a) Individuals employed under KRS 70.291 to 70.293 shall continue to receive all retirement and health insurance benefits to which they were entitled upon retiring in the applicable system administered by Kentucky Retirement Systems;
 - (b) Individuals employed under KRS 70.291 to 70.293 shall not be eligible to receive health insurance coverage through the *county police department, the* sheriff's office, or the fiscal court of the *county police department or sheriff's office*~~{county}~~;
 - (c) The *county police department, sheriff's office, or* fiscal court of the *county police department or sheriff's office* shall not pay any employer contributions or retiree health expense reimbursements to the Kentucky Retirement Systems required by KRS 61.637(17) for individuals employed under KRS 70.291 to 70.293; and
 - (d) The *county police department, sheriff's office, or* fiscal court of the *county police department or sheriff's office* shall not pay any insurance contributions to the state health insurance plan, as provided by KRS 18A.225 to 18A.2287, for individuals employed under KRS 70.291 to 70.293.
- (3) Individuals employed under KRS 70.291 to 70.293 shall be subject to any merit system, civil service, or other legislative due process provisions applicable to the *county police department or* sheriff's office. A decision not to renew a one (1) year appointment term under this section shall not be considered a disciplinary action or deprivation subject to due process.

➔Section 23. KRS 161.569 is amended to read as follows:

- (1) Any person electing to participate in the optional retirement plan shall be ineligible for membership in the regular retirement plan of the Kentucky Teachers' Retirement System for as long as the participant is employed in a position for which the optional retirement plan is available, except as provided in KRS 161.568(1).
- (2) Any person electing to participate in the optional retirement plan shall acknowledge in writing that the benefits payable to participants are not the obligation of the Commonwealth of Kentucky or the Kentucky Teachers' Retirement System, and that these benefits and other rights of the optional retirement plan are the liability and responsibility solely of the designated companies to which contributions have been made.
- (3) Benefits shall be payable to optional retirement plan participants or their beneficiaries by the designated companies in accordance with the contracts issued by each company and the retirement plan provisions adopted by each public institution.
- (4) Annuity contracts issued under the optional retirement plan and all rights of a participant in the optional retirement plan shall be exempt from any state, local, or municipal tax; assessment for the insolvency of any life, health, or casualty insurance company; any levy or sale, garnishment, or attachment; or any process whatsoever, and shall be unassignable except as otherwise specifically provided by the contracts offered under the optional retirement plan adopted by the respective public institutions of higher education. Except contracts issued and rights accrued in the optional retirement plan on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (5) Each institution shall contribute for each payroll period of each fiscal year to the Kentucky Teachers' Retirement System, an amount equal to five and one-tenth percent (5.1%) of the total salaries of all persons who elect or elected to participate in the optional retirement plan instead of the Kentucky Teachers' Retirement System. This payment shall continue to be made until **June 30, 2018**~~July 1, 2048~~. ***No contributions shall be payable on or after July 1, 2018, to the Kentucky Teachers' Retirement System for all persons who elect or elected to participate in the optional retirement plan instead of the Kentucky Teachers' Retirement System.***

➔SECTION 24. KRS 138.130 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this section to KRS 138.205:

- (1) (a) *"Chewing tobacco" means any leaf tobacco that is not intended to be smoked and includes loose leaf chewing tobacco, plug chewing tobacco, and twist chewing tobacco.*
- (b) *"Chewing tobacco" does not include snuff;*

- (2) (a) *"Cigarettes" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, except tobacco.*
- (b) *"Cigarettes" does not include reference tobacco products;*
- (3) *"Cigarette tax" means the group of taxes consisting of:*
 - (a) *The tax imposed by subsection (1)(a) of Section 27 of this Act;*
 - (b) *The surtax imposed by subsection (1)(b) of Section 27 of this Act; and*
 - (c) *The surtax imposed by subsection (1)(c) of Section 27 of this Act;*
- (4) *"Department" means the Department of Revenue;*
- (5) *"Distributor" means any person within this state in possession of tobacco products for resale within this state on which the tobacco products tax imposed under subsection (2) of Section 27 of this Act has not been paid;*
- (6) *"Half-pound unit" means a consumer-sized container, pouch, or package:*
 - (a) *Containing at least four (4) ounces but not more than eight (8) ounces of chewing tobacco by net weight;*
 - (b) *Produced by the manufacturer to be sold to consumers as a half-pound unit and not produced to be divided or sold separately; and*
 - (c) *Containing one (1) individual container, pouch, or package;*
- (7) *"Manufacturer" means any person who manufactures or produces cigarettes or tobacco products within or without this state;*
- (8) *"Nonresident wholesaler" means any person who purchases cigarettes directly from the manufacturer and maintains a permanent location outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid;*
- (9) *"Person" means any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, the Commonwealth of Kentucky or any of its political subdivisions, an estate, trust, or any other group or combination acting as a unit;*
- (10) *"Pound unit" means a consumer-sized container, pouch, or package:*
 - (a) *Containing more than eight (8) ounces but not more than sixteen (16) ounces of chewing tobacco by net weight;*
 - (b) *Produced by the manufacturer to be sold to consumers as a pound unit and not produced to be divided or sold separately; and*
 - (c) *Containing one (1) individual container, pouch, or package;*
- (11) *"Reference tobacco products" means tobacco products or cigarettes made by a manufacturer specifically for an accredited state college or university to be held by the college or university until sale or transfer to a laboratory, hospital, medical center, institute, college or university, manufacturer, or other institution;*
- (12) *"Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes purchased by the wholesaler directly from the manufacturer on which the cigarette tax is unpaid, and who maintains an established place of business in this state where the wholesaler attaches cigarette tax evidence or receives untax-paid cigarettes;*
- (13) *"Retail distributor" means a retailer who has obtained a retail distributor's license under Section 33 of this Act;*
- (14) *"Retailer" means any person who sells to a consumer or to any person for any purpose other than resale;*
- (15) *"Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes or tobacco products, and distribution in any manner or by any means whatsoever;*
- (16) *"Sale at retail" means a sale to any person for any other purpose other than resale;*

- (17) *"Single unit" means a consumer-sized container, pouch, or package:*
- (a) *Containing less than four (4) ounces of chewing tobacco by net weight;*
 - (b) *Produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately; and*
 - (c) *Containing one (1) individual container, pouch, or package;*
- (18) (a) *"Snuff" means tobacco that:*
- 1. *Is finely cut, ground, or powdered; and*
 - 2. *Is not for smoking.*
- (b) *"Snuff" includes snus;*
- (19) *"Sub-jobber" means any person who purchases cigarettes from a resident wholesaler, nonresident wholesaler, or unclassified acquirer licensed under Section 33 of this Act on which the cigarette tax has been paid and makes them available to retailers for resale. No person shall make cigarettes available to retailers for resale unless the person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes for resale in the regular course of business;*
- (20) *"Tax evidence" means any stamps, metered impressions, or other indicia prescribed by the department by administrative regulation as a means of denoting the payment of cigarette taxes;*
- (21) *"Tobacco products" means any smokeless tobacco products, smoking tobacco, chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for chewing or smoking, or both, or any kind or form of tobacco that is suitable to be placed in an individual's oral cavity, except cigarettes;*
- (22) *"Tobacco products tax" means the tax imposed by subsection (2) of Section 27 of this Act;*
- (23) *"Transporter" means any person transporting untax-paid cigarettes obtained from any source to any destination within this state, other than cigarettes transported by the manufacturer thereof;*
- (24) *"Unclassified acquirer" means any person in this state who acquires cigarettes from any source on which the cigarette tax has not been paid, and who is not a person otherwise required to be licensed under Section 33 of this Act;*
- (25) *"Untax-paid cigarettes" means any cigarettes on which the cigarette tax imposed by Section 27 of this Act has not been paid;*
- (26) *"Untax-paid tobacco products" means any tobacco products on which the tobacco products tax imposed by Section 27 of this Act has not been paid; and*
- (27) *"Vending machine operator" means any person who operates one (1) or more cigarette vending machines.*

➔Section 25. KRS 138.132 is amended to read as follows:

- (1) It is the declared legislative intent of KRS 138.130 to 138.205 that any untax-paid tobacco products held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.
- (2) (a) If a retailer, who is not a licensed retail distributor, purchases tobacco products from a licensed distributor and the purchase invoice does not contain the separate identification and display of the **tobacco products** ~~excise~~ tax ~~required by KRS 138.140(4)(d)3.~~, the retailer shall, within twenty-four (24) hours, notify the department in writing.
- (b) The notification shall include the name and address of the person from whom the tobacco products were purchased and a copy of the purchase invoice.
- (c) The tobacco products for which the required information was not included on the invoice shall be retained by the retailer, and not sold, for a period of fifteen (15) days after giving the proper notice as required by this subsection.
- (d) After the fifteen (15) day period, the retailer may pay the tax due on the tobacco products described in paragraph (c) of this subsection according to administrative regulations promulgated by the department, and after which may proceed to sell the tobacco products.

- (3) If a retailer, who is not a licensed retail distributor, purchases tobacco products for resale from a person not licensed under KRS 138.195(7), which is prohibited by *subsection (2) of Section 27 of this Act* ~~KRS 138.140(4)(c)~~, the retailer may not sell those tobacco products until the retailer applies for and is granted a retail distributor's license under KRS 138.195(7)(b).
- (4) If, upon examination, the department determines that the retailer has failed to comply with the provisions of subsection (3) of this section, the retailer shall pay all tax and interest and applicable penalties due and the following shall apply:
- (a) For the first offense, an additional penalty shall be assessed equal to ten percent (10%) of the tax due;
 - (b) For a second offense within three (3) years or less of the first offense, an additional penalty shall be assessed equal to twenty-five percent (25%) of the tax due; and
 - (c) For a third offense or subsequent offense within three (3) years or less of the first offense, the tobacco products shall be contraband and subject to seizure and forfeiture as provided in subsection (5) of this section.
- (5) (a) Whenever a representative of the department finds contraband tobacco products within the borders of this state, the tobacco products shall be immediately seized and stored in a depository to be determined by the representative.
- (b) At the time of seizure, the representative shall deliver to the person in whose custody the tobacco products are found a receipt for the seized products. The receipt shall state on its face that any inquiry concerning any tobacco products seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
- (c) Immediately upon seizure, the representative shall notify the commissioner of the nature and quantity of the tobacco products seized. Any seized tobacco products shall be held for a period of twenty (20) days, and if after that period no person has claimed the tobacco products as his or her property, the commissioner shall cause the tobacco products to be destroyed.
- (6) All fixtures, equipment, materials, and personal property used in substantial connection with the sale or possession of tobacco products involved in a knowing and intentional violation of KRS 138.130 to 138.205 shall be contraband and subject to seizure and forfeiture as follows:
- (a) The department's representative shall seize the property and store the property in a safe place selected by the representative; and
 - (b) The representative shall proceed as provided in KRS 138.165(2). The commissioner shall cause the property to be sold after notice published pursuant to KRS Chapter 424. The proceeds from the sale shall be applied as provided in KRS 138.165(2).
- (7) The owner or any person having an interest in the fixtures, materials, or personal property that has been seized as provided by subsection (6) of this section may apply to the commissioner for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the commissioner that the owner or person having an interest in the property was without fault, the department shall remit the forfeiture.
- (8) Any party aggrieved by an order entered under this section may appeal to the Kentucky Claims Commission pursuant to KRS 49.220.

➔Section 26. KRS 138.135 is amended to read as follows:

- (1) (a) Every manufacturer, whether located in this state or outside this state, that ships tobacco products to a distributor, retailer, retail distributor, or any other person located in this state shall file a report with the department on or before the twentieth day of each month identifying all such shipments made by the manufacturer during the preceding month. The department, within its discretion, may allow a manufacturer to file the report for periods other than monthly.
- (b) The reports shall identify:
- 1. The names and addresses of the persons in this state to whom the shipments were made;
 - 2. The quantities of tobacco products shipped, by type of product and brand; and
 - 3. Any other information the department may require.

- (2) Each licensed distributor and each licensed retail distributor shall keep in each licensed place of business complete and accurate records for that place of business, including:
- (a) Itemized invoices of:
 1. Tobacco products purchased, manufactured, imported, or caused to be imported into this state from outside this state, or shipped or transported to other distributors or retailers in this state or outside this state, including type of product and brand;
 2. All sales of tobacco products, including sales of tobacco products manufactured or produced in this state, including type of product and brand; and
 3. All tobacco products transferred to retail outlets owned or controlled by the licensed distributor, including type of product and brand; and
 - (b) Any other records required by the department.
- (3) Each retailer of tobacco products shall keep complete and accurate records of all purchases of tobacco products, including invoices that identify:
- (a) The distributor's name and address;
 - (b) The name, quantity, and purchase price of the product purchased;
 - (c) The license number of the distributor licensed under KRS 138.195(7); and
 - (d) The *tobacco products*~~[excise]~~ tax *imposed*~~[as required]~~ by *Section 27 of this Act*~~[KRS 138.140(4)(d)3]~~.
- (4) All books, records, invoices, and documents required by this section shall be preserved, in a form prescribed by the department, for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.

➔Section 27. KRS 138.140 is amended to read as follows:

- (1) (a) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of three cents (\$0.03) on each twenty (20) cigarettes.
- (b)~~[(2)]~~ Effective *July 1, 2018*~~[April 1, 2009]~~, a surtax shall be paid in addition to the tax levied in *paragraph (a) of this subsection*~~[(1) of this section]~~ at a proportionate rate of *one dollar and six cents (\$1.06)*~~[fifty six cents (\$0.56)]~~ on each twenty (20) cigarettes.~~[This tax shall be paid only once, at the same time the tax imposed by subsection (1) of this section is paid.]~~
- (c)~~[(3)]~~ ~~[Effective June 1, 2005,]~~ A surtax shall be paid in addition to the tax levied in *paragraph (a) of this subsection*~~[(1) of this section]~~ and in addition to the surtax levied by *paragraph (b) of this subsection*~~[(2) of this section]~~, at a proportionate rate of one cent (\$0.01) on each twenty (20) cigarettes.~~[This tax shall be paid at the same time the tax imposed by subsection (1) of this section and the surtax imposed by subsection (2) of this section are paid.]~~ The revenues from this surtax shall be deposited in the cancer research institutions matching fund created in KRS 164.043.
- (d) *The surtaxes imposed by paragraphs (b) and (c) of this subsection shall be paid at the time that the tax imposed by paragraph (a) of this subsection is paid.*
- (2)~~[(4)]~~ (a) ~~[Effective August 1, 2013,]~~ An excise tax is hereby imposed upon every distributor for the privilege of selling tobacco products in this state at the following rates:
1. Upon snuff at the rate of nineteen cents (\$0.19) per each one and one-half (1-1/2) ounces or portion thereof by net weight sold;
 2. Upon chewing tobacco at the rate of:
 - a. Nineteen cents (\$0.19) per each single unit sold;
 - b. Forty cents (\$0.40) per each half-pound unit sold; or
 - c. Sixty-five cents (\$0.65) per each pound unit sold.
- If the container, pouch, or package on which the tax is levied contains more than sixteen (16) ounces by net weight, the rate that shall be applied to the unit shall equal the sum of sixty-five

cents (\$0.65) plus nineteen cents (\$0.19) for each increment of four (4) ounces or portion thereof exceeding sixteen (16) ounces sold; and

3. Upon tobacco products sold, at the rate of fifteen percent (15%) of the actual price for which the distributor sells tobacco products, except snuff and chewing tobacco, within the Commonwealth.
 - (b) The net weight posted by the manufacturer on the container, pouch, or package or on the manufacturer's invoice shall be used to calculate the tax due on snuff or chewing tobacco.
 - (c)
 1. A retailer located in this state shall not purchase tobacco products for resale to consumers from any person within or outside this state unless that person is a distributor licensed under KRS 138.195(7)(a) or the retailer applies for and is granted a retail distributor's license under KRS 138.195(7)(b) for the privilege of purchasing ~~untax-paid[untaxed]~~ tobacco products and remitting the tax as provided in this paragraph.
 2. A licensed retail distributor of tobacco products shall be subject to the excise tax as follows:
 - a. On purchases of ~~untax-paid[untaxed]~~ snuff, at the same rate levied by paragraph (a)1. of this subsection;
 - b. On purchases of ~~untax-paid[untaxed]~~ chewing tobacco, at the same rates levied by paragraph (a)2. of this subsection; and
 - c. On purchases of ~~untax-paid[untaxed]~~ tobacco products, except snuff and chewing tobacco, fifteen percent (15%) of the total purchase price as invoiced by the retail distributor's supplier.
 - (d)
 1. The licensed distributor that first possesses tobacco products for sale to a retailer in this state or for sale to a person who is not licensed under KRS 138.195(7) shall be the distributor liable for the tax imposed by this subsection except as provided in subparagraph 2. of this paragraph.
 2. A distributor licensed under KRS 138.195(7)(a) may sell tobacco products to another distributor licensed under KRS 138.195(7)(a) without payment of the excise tax. In such case, the purchasing licensed distributor shall be the distributor liable for the tax.
 3. A licensed distributor or licensed retail distributor shall:
 - a. Identify and display the distributor's or retail distributor's license number on the invoice to the retailer; and
 - b. Identify and display the excise tax separately on the invoice to the retailer. If the excise tax is included as part of the product's sales price, the licensed distributor or licensed retail distributor shall list the total excise tax in summary form by tax type with invoice totals.
 4. It shall be presumed that the excise tax has not been paid if the licensed distributor or licensed retail distributor does not comply with subparagraph 3. of this paragraph.
 - (e) No tax shall be imposed on tobacco products under this subsection that are not within the taxing power of this state under the Commerce Clause of the United States Constitution.
- ~~(3)(5)~~ (a) The taxes imposed by subsections (1) and ~~(2)(4)~~ of this section:
1. Shall not apply to reference tobacco products; ~~and~~
 - ~~(6) The taxes imposed by subsections (1) to (4) of this section~~
 2. Shall be paid only once, regardless of the number of times the cigarettes~~+~~ or tobacco products may be sold.
- (b) *The taxes imposed by subsection (1)(a) and (b) and subsection (2) of this section shall be reduced by:*
1. *Fifty percent (50%) on any product as to which a modified risk tobacco product order is issued under 21 U.S.C. sec. 387k(g)(1); or*
 2. *Twenty-five percent (25%) for any product as to which a modified risk tobacco product order is issued under 21 U.S.C. sec. 387k(g)(2).*
- (4) *A reference tobacco product shall carry a marking labeling the contents as a research cigarette or a research tobacco product to be used only for tobacco-health research and experimental purposes and shall not be offered for sale, sold, or distributed to consumers.*

- (5)~~(7)~~ The department may prescribe forms and promulgate administrative regulations to execute and administer the provisions of this section.
- (6)~~(8)~~ The General Assembly recognizes that increasing taxes on tobacco products should reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The relative taxes on tobacco products proposed in this section reflect the growing data from scientific studies suggesting that although smokeless tobacco poses some risks, those health risks are significantly less than the risks posed by other forms of tobacco products. Moreover, the General Assembly acknowledges that some in the public health community recognize that tobacco harm reduction should be a complementary public health strategy regarding tobacco products. Taxing tobacco products according to relative risk is a rational tax policy and may well serve the public health goal of reducing smoking-related mortality and morbidity and lowering health care costs associated with tobacco-related disease.
- (7) *Any person subject to the taxes imposed under subsections (1) and (2) of this section that:*
- (a) *Files an application related to a modified risk tobacco product shall report to the department that an application has been filed within thirty (30) days of that filing; and*
 - (b) *Receives an order authorizing the marketing of a modified risk tobacco product shall report to the department that an authorizing order has been received.*
- (8) *Upon receipt of the information required by subsection (7)(b) of this section, the department shall reduce the tax imposed on the modified risk tobacco product as required by subsection (3)(b) of this section on the first day of the calendar month following the expiration of forty-five (45) days following receipt of the information required by subsection (7)(b) of this section.*

➔Section 28. KRS 138.143 is amended to read as follows:

- (1) Every retailer, sub-jobber, resident wholesaler, nonresident wholesaler, and unclassified acquirer shall:
- (a) Take a physical inventory of all cigarettes in packages bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or in their control at 11:59 p.m. on **June 30, 2018**~~March 31, 2009~~. Inventory of cigarettes in vending machines may be accomplished by:
 1. Taking an actual physical inventory;
 2. Estimating the cigarettes in vending machines by reporting one-half (1/2) of the normal fill capacity of the machines, as reflected in individual inventory records maintained for vending machines; or
 3. Using a combination of the methods prescribed in subparagraphs 1. and 2. of this paragraph;
 - (b) File a return with the department on or before **July 10, 2018**~~April 10, 2009~~, showing the entire wholesale and retail inventories of cigarettes in packages bearing Kentucky tax stamps, and all unaffixed Kentucky cigarette tax stamps possessed by them or in their control at 11:59 p.m. on **June 30, 2018**~~March 31, 2009~~; and
 - (c) Pay a floor stock tax at a proportionate rate equal to **fifty cents (\$0.50)**~~thirty cents (\$0.30)~~ on each twenty (20) cigarettes in packages bearing a Kentucky tax stamp and unaffixed Kentucky tax stamps in their possession or control at 11:59 p.m. on **June 30, 2018**~~March 31, 2009~~.
- (2) Every retailer and sub-jobber shall:
- (a)
 1. Take a physical inventory of all units of snuff possessed by them or in their control at 11:59 p.m. on March 31, 2009;
 2. File a return with the department on or before April 10, 2009, showing the entire inventory of snuff possessed by them or in their control at 11:59 p.m. on March 31, 2009; and
 3. Pay a floor stock tax at a proportionate rate equal to nine and one-half cents (\$0.095) on each unit of snuff in their possession or control at 11:59 p.m. on March 31, 2009; and
 - (b)
 1.
 - a. Take a physical inventory of all other tobacco products possessed by them or in their control at 11:59 p.m. on March 31, 2009;
 - b. File a return with the department on or before April 10, 2009, showing the entire inventories of other tobacco products possessed by them or in their control at 11:59 p.m. on March 31, 2009; and

- c. Pay a floor stock tax at a proportionate rate equal to seven and one-half percent (7.5%) on the purchase price of other tobacco products in their possession or control at 11:59 p.m. on March 31, 2009.
 - 2.
 - a. As used in this paragraph, "purchase price" means the actual amount paid for the other tobacco products subject to the tax imposed by this paragraph.
 - b. If the retailer or sub-jobber cannot determine the actual amount paid for each item of other tobacco product, the retailer or sub-jobber may use as the purchase price the amount per unit paid as reflected on the most recent invoice received prior to April 1, 2009, for the same category of other tobacco product.
 - c. To prevent double taxation, if the invoice used by the retailer or sub-jobber to determine the purchase price of the other tobacco product does not separately state the tax paid by the wholesaler, the retailer or sub-jobber may reduce the amount paid per unit by seven and one-half percent (7.5%).
- (3)
 - (a) The taxes imposed by this section may be paid in three (3) installments. The first installment, in an amount equal to at least one-third (1/3) of the total amount due, shall be remitted with the return provided by the department on or before **July 10, 2018**~~[April 10, 2009]~~. The second installment, in an amount that brings the total amount paid to at least two-thirds (2/3) of the total amount due, shall be remitted on or before **August 10, 2018**~~[May 10, 2009]~~. The third installment, in an amount equal to the remaining balance, shall be remitted on or before **September 10, 2018**~~[June 10, 2009]~~.
 - (b) Interest shall not be imposed against any outstanding installment payment not yet due from any retailer, sub-jobber, resident wholesaler, nonresident wholesaler, or unclassified acquirer who files the return and makes payments as required under this section.
 - (c) Any retailer, sub-jobber, resident wholesaler, nonresident wholesaler, or unclassified acquirer who fails to file a return or make a payment on or before the dates provided in this section shall, in addition to the tax, pay interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the return was required to be filed.

➔Section 29. KRS 138.146 is amended to read as follows:

- (1) The **cigarette** tax~~[imposed by KRS 138.130 to 138.205]~~ shall be due when any licensed wholesaler or unclassified acquirer takes possession within this state of untax-paid cigarettes.
- (2)
 - (a) The **cigarette** tax shall be paid by the purchase of stamps by a resident wholesaler within forty-eight (48) hours after the wholesaler receives the cigarettes.
 - (b) A stamp shall be affixed to each package of an aggregate denomination not less than the amount of the **cigarette** tax on the package.
 - (c) The affixed stamp shall be prima facie evidence of payment of **the cigarette** tax.
 - (d) Unless stamps have been previously affixed, they shall be affixed by each resident wholesaler prior to the delivery of any cigarettes to a retail location or any person in this state.
 - (e) The evidence of **cigarette** tax payment shall be affixed to each individual package of cigarettes by a nonresident wholesaler prior to the introduction or importation of the cigarettes into the territorial limits of this state.
 - (f) The evidence of **cigarette** tax payment shall be affixed by an unclassified acquirer within twenty-four (24) hours after the cigarettes are received by the unclassified acquirer.
- (3)
 - (a) The department shall by regulation prescribe the form of cigarette tax evidence, the method and manner of the sale and distribution of cigarette tax evidence, and the method and manner that tax evidence shall be affixed to the cigarettes.
 - (b) All cigarette tax evidence prescribed by the department shall be designed and furnished in a fashion to permit identification of the person that affixed the cigarette tax evidence to the particular package of cigarettes, by means of numerical rolls or other mark on the cigarette tax evidence.
 - (c) The department shall maintain for at least three (3) years information identifying the person that affixed the cigarette tax evidence to each package of cigarettes. This information shall not be kept confidential or exempt from disclosure to the public through open records.

- (4) (a) Units of cigarette tax evidence shall be sold at their face value, but the department shall allow as compensation to any licensed wholesaler an amount of tax evidence equal to thirty cents (\$0.30) face value for each three dollars (\$3) of tax evidence purchased at face value and attributable to the tax assessed in *subsection (1)(a) of Section 27 of this Act*~~[KRS 138.140(1)]~~. No compensation shall be allowed for tax evidence purchased at face value attributable to the *surtaxes imposed*~~[tax assessed]~~ in *paragraphs (b) or (c) of subsection (1) of Section 27 of this Act*~~[KRS 138.140(2) or (3)]~~.
- (b) ~~1. Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of offsetting the costs associated with paying the tax imposed under KRS 138.140(2), the department shall allow a limited amount of compensation in addition to the compensation provided in paragraph (a) of this subsection for a restricted time to any licensed wholesaler. The additional compensation shall be an amount of tax evidence, attributable to the tax assessed in KRS 138.140(1), equal to twelve cents (\$0.12) face value for each three dollars (\$3) of tax evidence purchased at face value on or after June 1, 2005, and before December 1, 2005. The additional compensation provided shall sunset 12 midnight November 30, 2005.~~
- ~~2. During the six (6) month period beginning on June 1, 2005, and ending before December 1, 2005, no licensed wholesaler or stamping agent shall receive the additional compensation provided under subparagraph 1. of this subsection on the purchase of an amount of stamps over one hundred fifty percent (150%) of the total number of stamps purchased by the same licensed wholesaler or stamping agent for the period beginning on December 1, 2004, and ending before May 31, 2005.~~
- ~~(c) The department shall have the power to withhold compensation as provided in *paragraph*~~[paragraphs]~~ (a) ~~and (b)~~ of this subsection from any licensed wholesaler for failure to abide by any provisions of KRS 138.130 to 138.205 or any *administrative* regulations promulgated thereunder. Any refund or credit for unused cigarette tax evidence shall be reduced by the amount allowed as compensation at the time of purchase.~~
- (5) (a) No tax evidence may be affixed, or used in any way, by any person other than the person purchasing the evidence from the department.
- (b) Tax evidence may not be transferred or negotiated, and may not, by any scheme or device, be given, bartered, sold, traded, or loaned to any other person.
- (c) Unaffixed tax evidence may be returned to the department~~[]~~ for credit or refund for any reason satisfactory to the department.
- (6) (a) In the event any retailer *receives*~~[shall receive]~~ into his possession cigarettes to which evidence of Kentucky tax payment is not properly affixed, *the retailer*~~he~~ shall, within twenty-four (24) hours, notify the department~~[]~~ of *the receipt*~~[such fact]~~.
- (b) *The notification to the department*~~[Such notice]~~ shall be in writing, *stating*~~[and shall give]~~ the name of the person from whom *the*~~[such]~~ cigarettes were received~~[]~~ and the quantity of *those*~~[such]~~ cigarettes.~~[] and such []~~
- (c) *The* written notice may be:
1. Given to any field agent of the department; ~~or [] The written notice may also be []~~
 2. Directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
- (d) If *the*~~[such]~~ notice is given by means of the United States mail, it shall be sent by certified mail.
- (e) Any such cigarettes shall be retained by *the*~~[such]~~ retailer, and not sold, for a period of fifteen (15) days after giving the notice provided in this subsection.
- (f) The retailer may, at his option, pay the tax due on *those*~~[any such]~~ cigarettes according to *administrative*~~[rules and]~~ regulations~~[to be]~~ prescribed by the department, and proceed to sell *those* cigarettes~~[the same]~~ after *the*~~[such]~~ payment.
- (7) (a) Cigarettes stamped with the cigarette tax evidence of another state shall at no time be commingled with cigarettes on which the Kentucky cigarette tax evidence has been affixed.~~[] but []~~
- (b) Any licensed wholesaler, licensed sub-jobber, or licensed vending machine operator may hold cigarettes stamped with the tax evidence of another state for any period of time, subsection (2) of this section notwithstanding.

➔Section 30. KRS 138.155 is amended to read as follows:

In lieu of the affixing of cigarette tax evidence to individual packages of cigarettes as the means of denoting payment of the cigarette tax ~~imposed by KRS 138.130 to 138.205~~, the department may prescribe, by *an administrative regulation* ~~rules and regulations~~ sufficient to protect the revenue of this state, a method of reporting, payment, and collection of *the cigarette* ~~such~~ tax, without the affixing of tax evidence to individual packages of cigarettes. In the event ~~such~~ a system is adopted *by administrative regulation*, no compensation for reporting for the purpose of such tax in excess of two percent (2%) of the tax due shall be allowed to any person.

➔Section 31. KRS 138.165 is amended to read as follows:

- (1) It is declared to be the legislative intent of KRS 138.130 to 138.205 that any untax-paid cigarettes held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.
- (2)
 - (a) Whenever any peace officer of this state, or any representative of the department, finds any untax-paid cigarettes within the borders of this state in the possession of any person other than a licensee authorized to possess untax-paid cigarettes by the provisions of KRS 138.130 to 138.205, *those* ~~such~~ cigarettes shall be immediately seized and stored in a depository to be selected by the officer or agent.
 - (b) At the time of seizure, the officer or agent shall deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face that any inquiry concerning any goods seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.
 - (c) Immediately upon seizure, the officer or agent shall notify the commissioner of the department ~~of Revenue~~ of the nature and quantity of the goods seized.
 - (d) Any seized goods shall be held for a period of twenty (20) days and if after *that* ~~such~~ period no person has claimed the cigarettes ~~as his property~~, the commissioner shall cause the same to be exposed to public sale to any person authorized to purchase untax-paid cigarettes. The sale shall be on notice published pursuant to KRS Chapter 424. All proceeds, less the cost of sale, from the sale shall be paid into the Kentucky State Treasury for general fund purposes.
- (3) It is declared to be the legislative intent that any vending machine used for dispensing cigarettes on which Kentucky cigarette tax has not been paid is contraband and subject to seizure and forfeiture. In the event any peace officer or agent of the department finds any vending machine within the borders of this state dispensing untax-paid cigarettes, *the officer or agent* ~~he~~ shall immediately seize the vending machine and store the *vending machine* ~~same~~ in a safe place selected by *the officer or agent* ~~him~~. *The officer or agent* ~~He~~ shall ~~thereafter~~ proceed as provided in subsection (2) of this section and the commissioner of the department ~~of Revenue~~ shall cause the vending machine to be sold, and the proceeds applied, as *established* ~~set out~~ in subsection (2) of this section.
- (4) No *untax-paid* cigarettes~~, on which the tax imposed by KRS 138.130 to 138.205 has not been paid,~~ shall be transported within this state by any person other than a manufacturer or a person licensed under the provisions of KRS 138.195. It is declared to be the legislative intent that any motor vehicle used to transport any such cigarettes by other persons is contraband and subject to seizure and forfeiture. If any peace officer or agent of the department finds any such motor vehicle, the vehicle shall be seized immediately and stored in a safe place. The peace officer or agent of the department shall ~~thereafter~~ proceed as provided in subsection (2) of this section and the commissioner of the department ~~of Revenue~~ shall cause the motor vehicle to be sold, and the proceeds applied, as *established* ~~set out~~ in subsection (2) of this section.
- (5)
 - (a) The owner or any person having an interest in any goods, machines or vehicles seized as provided under subsections (1) to (4) of this section may apply to the commissioner of the department ~~of Revenue~~ for remission of the forfeiture for good cause shown.
 - (b) If it is shown to the satisfaction of the department ~~of Revenue~~ that the owner was without fault in the possession, dispensing, or transportation of the untax-paid cigarettes, the department ~~of Revenue~~ shall remit the forfeiture.
 - (c) If the department ~~of Revenue~~ determines that the possession, dispensing, or transportation of untax-paid cigarettes was willful or intentional, the department ~~of Revenue~~ may nevertheless remit the forfeiture on condition that the owner pay a penalty to be prescribed by the department ~~of Revenue~~ of not more than fifty percent (50%) of the value of the property forfeited. All taxes due on untax-paid cigarettes shall be paid in addition to the penalty, if any.

- (6) Any party aggrieved by an order entered hereunder may appeal to the Kentucky Claims Commission pursuant to KRS 49.220.

➔Section 32. KRS 138.183 is amended to read as follows:

- (1) Notwithstanding any other provision of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 138.130 to 138.205 shall be personally and individually liable, both jointly and severally, for the *cigarette tax and the tobacco products tax* ~~taxes imposed under KRS 138.130 to 138.205~~.
- (2) Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to every person holding a corporate office at the time the tax becomes or became due.
- (3) Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or KRS 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership or any other person holding any equivalent office of a limited liability company, limited liability partnership or limited liability limited partnership subject to the provisions of KRS 138.130 to 138.205 shall be personally and individually liable, both jointly and severally, for the *cigarette tax and the tobacco products tax* ~~tax imposed under KRS 138.130 to 138.205~~.
- (4) Dissolution, withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to every manager of a limited liability company, partner of a limited liability partnership or general partner of a limited liability limited partnership at the time the tax becomes or became due.
- (5) No person shall be personally and individually liable under this section who had no authority to collect, truthfully account for, or pay over any *cigarette tax or tobacco products tax* ~~tax imposed by KRS 138.130 to 138.205~~ at the time the ~~taxes~~ ~~tax~~ *become* ~~becomes~~ or became due.
- (6) "Taxes" as used in this section include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and 131.990.

➔Section 33. KRS 138.195 is amended to read as follows:

- (1)
 - (a) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.
 - (b) No person shall act as a distributor of tobacco products without first obtaining a license from the department as set out in this section.
 - (c) For licenses effective for periods beginning on or after July 1, 2015, no individual, entity, or any other group or combination acting as a unit may be eligible to obtain a license under this section if the individual, or any partner, director, principal officer, or manager of the entity or any other group or combination acting as a unit has been convicted of or entered a plea of guilty or nolo contendere to:
 1. A crime relating to the reporting, distribution, sale, or taxation of cigarettes or tobacco products; or
 2. A crime involving fraud, falsification of records, improper business transactions or reporting; for ten (10) years from the expiration of probation or final discharge from parole or maximum expiration of sentence.
- (2)
 - (a) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received.
 - (b) Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid.
 - (c) *Each* ~~Such a~~ license ~~or licenses~~ shall be secured on or before July 1 of each year. ~~and~~

- (d) Each licensee shall pay the sum of five hundred dollars (\$500) for each ~~such~~ year, or portion thereof, for which ~~each such~~ license is secured.
- (3) (a) Each sub-jobber shall secure a separate license for each place of business from which ~~Kentucky tax paid~~ cigarettes, ***upon which the cigarette tax has been paid***, are made available to retailers, whether ~~the such~~ place of business is located within or without this state.
- (b) ~~Each Such~~ license ~~or licenses~~ shall be secured on or before July 1 of each year. ~~and~~
- (c) Each licensee shall pay the sum of five hundred dollars (\$500) for each ~~such~~ year, or portion thereof, for which ~~each such~~ license is secured.
- (4) (a) Each vending machine operator shall secure a license for the privilege of dispensing ~~Kentucky tax paid~~ cigarettes, ***on which the cigarette tax has been paid***, by vending machines.
- (b) ~~Each Such~~ license shall be secured on or before July 1 of each year. ~~and~~
- (c) Each licensee shall pay the sum of twenty-five dollars (\$25) for each year, or portion thereof, for which ~~each such~~ license is secured.
- (d) No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator ~~and together with~~ the license number assigned to ~~that such~~ operator by the department.
- (e) The department shall prescribe by administrative regulation the manner in which the information shall be affixed to the vending machine.
- (5) (a) Each transporter shall secure a license for the privilege of transporting cigarettes within this state.
- (b) ~~Each Such~~ license shall be secured on or before July 1 of each year. ~~and~~
- (c) Each licensee shall pay the sum of fifty dollars (\$50) for each ~~such~~ year, or portion thereof, for which ~~each such~~ license is secured.
- (d) No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing:
1. The name and address of the consignor and consignee; ~~and~~
 2. The date acquired by the transporter; ~~and~~
 3. The name and address of the transporter; ~~and~~
 4. The quantity of cigarettes being transported; ~~and together with~~
 5. The license number assigned to ~~the such~~ transporter by the department.
- (6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the ~~Kentucky~~ cigarette tax has not been paid. ~~The Such~~ license shall be secured on or before July 1 of each year. ~~and~~ Each licensee shall pay the sum of fifty dollars (\$50) for each ~~such~~ year, or portion thereof, for which ~~the such~~ license is secured.
- (7) (a) 1. Each distributor shall secure a license for the privilege of selling tobacco products in this state. Each license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each year, or portion thereof, for which the license is secured.
2. a. A resident wholesaler, nonresident wholesaler, or subjobber licensed under this section may also obtain and maintain a distributor's license at each place of business at no additional cost each year.
- b. An unclassified acquirer licensed under this section may also obtain and maintain a distributor's license for the privilege of selling tobacco products in this state. The license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of four hundred fifty dollars (\$450) for each year, or portion thereof, for which the license is secured.
3. The department may, upon application, grant a distributor's license to a person other than a retailer and who is not otherwise required to hold a distributor's license under this paragraph. If the department grants the license, the licensee shall pay the sum of five hundred dollars (\$500)

for each year, or portion thereof, for which the license is secured, and the licensee shall be subject to the excise tax in the same manner and subject to the same requirements as a distributor required to be licensed under this paragraph.

- (b) The department may, upon application, grant a retail distributor's license to a retailer for the privilege of purchasing tobacco products from a distributor not licensed by the department. If the department grants the license, the licensee shall pay the sum of one hundred dollars (\$100) for each year, or portion thereof, for which the license is secured.
- (8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of ~~that[such]~~ person's business is so diversified as to justify ~~the[such]~~ requirement.
- (9) (a) The department may by administrative regulation require any person requesting a license or holding a license under this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of ~~the[such]~~ licensees, and to protect the revenues of the state.
- (b) Failure on the part of the applicant or licensee to:
 - 1. Comply with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder;~~[-]~~ or ~~to~~
 - 2. Permit an inspection of premises, machines, or vehicles by an authorized agent of the department at any reasonable time;
 shall be grounds for the denial or revocation of any license issued by the department, after due notice and a hearing by the department.
- (c) The commissioner may assign a time and place for the hearing and may appoint a conferee who shall conduct a hearing, receive evidence, and hear arguments.
- (d) The conferee shall thereupon file a report with the commissioner together with a recommendation as to the denial or revocation of the license.
- (e) From any denial or revocation made by the commissioner on the report, the licensee may prosecute an appeal to the Kentucky Claims Commission pursuant to KRS 49.220.
- (f) Any person whose license has been revoked for the willful violation of any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, or 248.754 or any administrative regulations promulgated thereunder shall not be entitled to any license provided for in this section, or have any interest in any license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of two (2) years after the revocation.
- (10) No license issued pursuant to this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.
- (11) Every manufacturer located or doing business in this state and the first person to import cigarettes into this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit to the department monthly reports of such shipments. All books, records, invoices, and documents required by this section shall be preserved in a form prescribed by the department for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.
- (12) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.
- (13) (a) Licensed distributors of tobacco products shall pay and report the **tobacco products** tax ~~levied by KRS 138.140(4)(a)~~ on or before the twentieth day of the calendar month following the month in which the possession or title of the tobacco products are transferred from the licensed distributor to retailers or consumers in this state, as the case may be.
- (b) Retailers who have applied for and been granted a retail distributor's license for the privilege of purchasing tobacco products from a person who is not a distributor licensed under KRS 138.195(7)(a) shall report and pay the **tobacco products** tax ~~levied by KRS 138.140(4)(c)2.~~ on or before the twentieth day of the calendar month following the month in which the products are acquired by the licensed retail distributors.

- (c) If the distributor or retail distributor timely reports and pays the tax due, the distributor or retail distributor may deduct an amount equal to one percent (1%) of the tax due.
 - (d) The department shall promulgate administrative regulations setting forth the details of the reporting requirements.
- (14) A tax return shall be filed for each reporting period whether or not tax is due.
- (15) Any license issued by the department under this section shall not be construed to waive or condone any violation that occurred or may have occurred prior to the issuance of the license and shall not prevent subsequent proceedings against the licensee.
- (16) (a) The department may deny the issuance of a license under this section if:
- 1. The applicant has made any material false statement on the application for the license; or
 - 2. The applicant has violated any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.754, or 248.756 or any administrative regulations promulgated thereunder.
- (b) If the department denies the applicant a license under this section, the department shall notify the applicant of the grounds for the denial, and the applicant may request a hearing and appeal the denial as provided in subsection (9) of this section.

➔Section 34. KRS 164.043 is amended to read as follows:

- (1) There is hereby created in the State Treasury a cancer research matching fund designated as the "cancer research institutions matching fund." The fund shall be administered by the Council for Postsecondary Education. For tax periods beginning on or after June 1, 2005, the one-cent (\$0.01) surtax collected under **subsection (1)(c) of Section 27 of this Act**~~KRS 138.140(2)~~ shall be deposited in the fund and shall be made available for matching purposes to the following universities for cancer research:
- (a) One-half (1/2) of the moneys deposited in the fund shall be made available to the University of Kentucky; and
 - (b) One-half (1/2) of the moneys deposited in the fund shall be made available to the University of Louisville.
- (2) All interest earned on moneys in the fund shall be credited to the fund.
- (3) Any moneys remaining in the fund at the end of the fiscal year shall lapse to the general fund.
- (4) To receive the funds, the universities shall provide dollar-for-dollar matching funds. The matching funds shall come from external sources to be eligible for the state match. External source contributions are those that originate outside the university and its affiliated corporations. The matching funds shall be newly generated to be eligible for state match. Newly generated contributions are those received by the university after April 1, 2005.
- (5) Moneys transferred to the fund pursuant to subsection (1) of this section are hereby appropriated for purposes set forth in this section.
- (6) The following funds are not eligible for state match:
- (a) Funds received from federal, state, and local government sources; and
 - (b) General fund and student-derived revenues.

➔Section 35. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

- (1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.
- (2) "Commissioner" means the commissioner of the Department of Revenue of the Commonwealth of Kentucky.
- (3) "Department" means the Department of Revenue.
- (4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

- (5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130~~[(12)]~~, broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.
- (6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.
- (7) "Sale" or "sell" means any transfer for consideration or gift.
- (8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.
- (9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.
- (10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.
- (11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.
- (b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.
- (12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.
- (b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

➔Section 36. KRS 139.010 is amended to read as follows:

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

- (1) *"Admissions" means the fees paid for:*
 - (a) *The right of entrance to a display, program, sporting event, music concert, performance, play, show, movie, exhibit, fair, or other entertainment or amusement event or venue; and*
 - (b) *The privilege of using facilities or participating in an event or activity, including but not limited to:*
 - 1. *Bowling centers;*
 - 2. *Skating rinks;*

3. *Health spas;*
4. *Swimming pools;*
5. *Tennis courts;*
6. *Weight training facilities;*
7. *Fitness and recreational sports centers; and*
8. *Golf courses, both public and private;*

regardless of whether the fee paid is per use or in any other form, including but not limited to an initiation fee, monthly fee, membership fee, or combination thereof;

- (2) "Advertising and promotional direct mail" means direct mail the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this definition, "product" means tangible personal property, an item transferred electronically, or a service;
- ~~(3)(2)~~ "Business" includes any activity engaged in by any person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect;
- ~~(4)(3)~~ "Commonwealth" means the Commonwealth of Kentucky;
- ~~(5)(4)~~ "Department" means the Department of Revenue;
- ~~(6)(5)~~
 - (a) "Digital audio-visual works" means a series of related images which, when shown in succession, impart an impression of motion, with accompanying sounds, if any.
 - (b) "Digital audio-visual works" includes movies, motion pictures, musical videos, news and entertainment programs, and live events.
 - (c) "Digital audio-visual works" shall not include video greeting cards, video games, and electronic games;
- ~~(7)(6)~~
 - (a) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds.
 - (b) "Digital audio works" includes ringtones, recorded or live songs, music, readings of books or other written materials, speeches, or other sound recordings.
 - (c) "Digital audio works" shall not include audio greeting cards sent by electronic mail;
- ~~(8)(7)~~
 - (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.
 - (b) "Digital books" shall not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers, or other news or information products, chat rooms, or Web logs;
- ~~(9)(8)~~
 - (a) "Digital code" means a code which provides a purchaser with a right to obtain one (1) or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code, or book code.
 - (b) "Digital code" shall not include a code that represents:
 1. A stored monetary value that is deducted from a total as it is used by the purchaser; or
 2. A redeemable card, gift card, or gift certificate that entitles the holder to select specific types of digital property;
- ~~(10)(9)~~
 - (a) "Digital property" means any of the following which is transferred electronically:
 1. Digital audio works;
 2. Digital books;
 3. Finished artwork;
 4. Digital photographs;
 5. Periodicals;

6. Newspapers;
 7. Magazines;
 8. Video greeting cards;
 9. Audio greeting cards;
 10. Video games;
 11. Electronic games; or
 12. Any digital code related to this property.
- (b) "Digital property" shall not include digital audio-visual works or satellite radio programming;
- ~~(11)~~~~(10)~~ (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address;
- (12) "Directly used in the manufacturing or industrial processing process" means the process within a plant facility that commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the finished product is packaged and ready for sale;**
- (13) "Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property or digital property according to the terms of the contract if:**
- (a) The service contract agreement is sold or purchased on or after July 1, 2018; and**
- (b) The tangible personal property or digital property for which the service contract agreement is provided is subject to tax under this chapter or under KRS 138.460;**
- ~~(14)~~~~(11)~~ (a) "Finished artwork" means final art that is used for actual reproduction by photomechanical or other processes or for display purposes.
- (b) "Finished artwork" includes:
1. Assemblies;
 2. Charts;
 3. Designs;
 4. Drawings;
 5. Graphs;
 6. Illustrative materials;
 7. Lettering;
 8. Mechanicals;
 9. Paintings; and
 10. Paste-ups;
- ~~(15)~~~~(12)~~ (a) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:
1. The retailer's cost of the tangible personal property or digital property sold;
 2. The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;

3. Charges by the retailer for any services necessary to complete the sale;
 4. Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing;~~{and}~~
 5. Any amount for which credit is given to the purchaser by the retailer, other than credit for tangible personal property or digital property traded when the tangible personal property or digital property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale; *and*
 6. *The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold.*
- (b) "Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:
1. The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;
 2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
 3. The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and
 4. One (1) of the following criteria is met:
 - a. The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;
 - b. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or
 - c. The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.
- (c) "Gross receipts" and "sales price" shall not include:
1. Discounts, including cash, term, or coupons that are not reimbursed by a third party and that are allowed by a retailer and taken by a purchaser on a sale;
 2. Interest, financing, and carrying charges from credit extended on the sale of tangible personal property, digital property, or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; *or*
 3. Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;~~{or}~~
 4. ~~The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold, provided the amount charged is separately stated on the invoice, bill of sale, or similar document given to the purchaser.~~
- (d) As used in this subsection, "third party" means a person other than the purchaser;
- ~~(16)~~~~(13)~~ "In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;
- (17) *"Industrial processing" includes:*
- (a) *Refining;*
 - (b) *Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;*
 - (c) *Mining, quarrying, fabricating, and industrial assembling;*

(d) *The processing and packaging of raw materials, in-process materials, and finished products; and*

(e) *The processing and packaging of farm and dairy products for sale;*

(18)(14) (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to:

1. Purchase the property; or
2. Extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).

(b) "Lease or rental" shall not include:

1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or
3. Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.

(c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;

(19)(15) (a) "Machinery for new and expanded industry" means machinery:

1. **Directly** used ~~directly in the~~ manufacturing or **industrial** processing ~~production~~ process;
2. Which is incorporated for the first time into a plant facility established in this state; and
3. Which does not replace machinery in the plant facility unless that machinery purchased to replace existing machinery:
 - a. Increases the consumption of recycled materials at the plant facility by not less than ten percent (10%);
 - b. Performs different functions;
 - c. Is used to manufacture a different product; or
 - d. Has a greater productive capacity, as measured in units of production, than the machinery being replaced.

(b) ~~The term~~ "Machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind, regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or ~~seller~~ ~~vendor~~ as a condition of sale or as a condition of warranty;

~~(c) The term "processing production" shall include the processing and packaging of raw materials, in-process materials, and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone, and natural gas;~~

(20)(16) "Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery~~[- The manufacturing or processing production process commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the product being manufactured is packaged and ready for sale];~~

(21) "Marketplace" means any physical or electronic means through which one (1) or more retailers may advertise and sell or lease tangible personal property or digital property, such as a catalog, Internet Web site, or television or radio broadcast, regardless of whether the tangible personal property, digital property, or retailer is physically present in this state;

- (22) *"Marketplace facilitator" means a person that facilitates the retail sale of tangible personal property or digital property by listing or advertising the tangible personal property for sale at retail and either directly or indirectly through agreements or arrangements with third parties, collects the payment from the purchaser, and transmits the payment to the person selling the property;*
- (23) *"Marketplace retailer" means a person that has an agreement with a marketplace facilitator and makes retail sales of tangible personal property or digital property through a marketplace;*
- (24)~~(17)~~ (a) "Occasional sale" includes:
1. A sale of tangible personal property or digital property not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occasional sale; or
 2. Any transfer of all or substantially all the tangible personal property or digital property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.
- (b) For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the tangible personal property or digital property of such corporation or other entity;
- (25)~~(18)~~ (a) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing.
- (b) "Other direct mail" includes but is not limited to:
1. Transactional direct mail that contains personal information specific to the addressee, including but not limited to invoices, bills, statements of account, and payroll advices;
 2. Any legally required mailings, including but not limited to privacy notices, tax reports, and stockholder reports; and
 3. Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including but not limited to newsletters and informational pieces.
- (c) "Other direct mail" does not include the development of billing information or the provision of any data processing service that is more than incidental to the production of printed material;
- (26)~~(19)~~ "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;
- (27)~~(20)~~ "Permanent," as the term applies to digital property, means perpetual or for an indefinite or unspecified length of time;
- (28)~~(21)~~ "Plant facility" means a single location that is exclusively dedicated to manufacturing or **industrial** processing~~[production]~~ activities.~~[For purposes of this section,]~~ A location shall be deemed to be exclusively dedicated to manufacturing **or industrial processing** activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing **or industrial processing** activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment;
- (29)~~(22)~~ (a) "Prewritten computer software" means:
- 1.~~(a)~~ Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser;~~[- The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;]~~
 - 2.~~(b)~~ Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser; or

3. ~~{(e)}~~ Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, ***unless there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement.***
- (b) When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made. ~~{In the case of modified or enhanced prewritten software, if there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement, then the modification or enhancement shall not constitute prewritten computer software;}~~
- (c) ***The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;***
- (30) ~~{(23)}~~ (a) "Purchase" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
1. Tangible personal property;
 2. ***An extended warranty service;*** or
 3. Digital property transferred electronically;
- for a consideration. ~~{and}~~
- (b) ***"Purchase"*** includes:
1. ~~{(a)}~~ When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;
 2. ~~{(b)}~~ A transaction whereby the possession of tangible personal property or digital property is transferred but the seller retains the title as security for the payment of the price; and
 3. ~~{(c)}~~ A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;
- (31) ~~{(24)}~~ "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products;
- (32) ~~{(25)}~~ "Recycling purposes" means those activities undertaken in which materials that would otherwise become solid waste are collected, separated, or processed in order to be reused or returned to use in the form of raw materials or products;
- (33) ***"Referrer" means a person that:***
- (a) ***Contracts with a retailer or retailer's representative to advertise or list tangible personal property or digital property for sale or lease;***
 - (b) ***Makes referrals by connecting a person to the retailer or the retailer's representative, but not acting as a marketplace facilitator; and***
 - (c) ***Received in the prior calendar year or the current calendar year, in the aggregate, at least ten thousand dollars (\$10,000) in consideration from remote retailers, marketplace retailers, or representatives of remote retailers or marketplace retailers for referrals on retail sales to purchasers in this state;***
- (34) (a) ***"Remote retailer" means a retailer with no physical presence in this state.***
- (b) ***"Remote retailer" does not include a marketplace facilitator or a referrer;***
- (35) ~~{(26)}~~ (a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment.
- (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools;
- (36) ~~{(27)}~~ (a) "Retailer" means:

1. Every person engaged in the business of making retail sales of tangible personal property, digital property, or furnishing any services included in KRS 139.200;
 2. Every person engaged in the business of making sales at auction of tangible personal property or digital property owned by the person or others for storage, use or other consumption, except as provided in paragraph (c) of this subsection;
 3. Every person making more than two (2) retail sales of tangible personal property or digital property during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
 4. Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.
- (b) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property or digital property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.
- (c) 1. Any person making sales at a charitable auction for a qualifying entity shall not be a retailer for purposes of the sales made at the charitable auction if:
- a. The qualifying entity, not the person making sales at the auction, is sponsoring the auction;
 - b. The purchaser of tangible personal property at the auction directly pays the qualifying entity sponsoring the auction for the property and not the person making the sales at the auction; and
 - c. The qualifying entity, not the person making sales at the auction, is responsible for the collection, control, and disbursement of the auction proceeds.
2. If the conditions set forth in subparagraph 1. of this paragraph are met, the qualifying entity sponsoring the auction shall be the retailer for purposes of the sales made at the charitable auction.
3. For purposes of this paragraph, "qualifying entity" means a resident:
- a. Church;
 - b. School;
 - c. Civic club; or
 - d. Any other nonprofit charitable, religious, or educational organization;
- ~~(37)(28)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent;
- ~~(38)(29)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.
- (b) "Ringtones" shall not include ringback tones or other digital files that are not stored on the purchaser's communications device;
- ~~(39)(30)~~ (a) "Sale" means:
1. The furnishing of any services included in KRS 139.200;
 2. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
 - a. Tangible personal property; or
 - b. Digital property transferred electronically;
 for a consideration.~~[, and]~~
- (b) "Sale" includes, *but is not limited to*:

1. The producing, fabricating, processing, printing, or imprinting of tangible personal property or digital property for a consideration for purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;
 2. A transaction whereby the possession of tangible personal property or digital property is transferred, but the seller retains the title as security for the payment of the price; and
 3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the purchaser.
- ~~(c)(4b)~~ This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- ~~(40)(31)~~ "Seller" includes every person engaged in the business of selling tangible personal property, digital property, or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and every person engaged in making sales for resale;
- ~~(41)(32)~~ (a) "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property or digital property purchased from a retailer.
- (b) "Storage" does not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state;
- ~~(42)(33)~~ "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses and includes natural, artificial, and mixed gas, electricity, water, steam, and prewritten computer software;
- ~~(43)(34)~~ "Taxpayer" means any person liable for tax under this chapter;
- ~~(44)(35)~~ "Transferred electronically" means accessed or obtained by the purchaser by means other than tangible storage media; and
- ~~(45)(36)~~ (a) "Use" includes the exercise of:
1. Any right or power over tangible personal property or digital property incident to the ownership of that property, or by any transaction in which possession is given, or by any transaction involving digital property where the right of access is granted; **or**
 2. ***Any right or power to benefit from extended warranty services.***
- (b) "Use" does not include the keeping, retaining, or exercising any right or power over tangible personal property or digital property for the purpose of:
1. Selling tangible personal property or digital property in the regular course of business; or
 2. Subsequently transporting tangible personal property outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

➔Section 37. KRS 139.200 is amended to read as follows:

A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts derived from:

- (1) Retail sales of:
 - (a) Tangible personal property, regardless of the method of delivery, made within this Commonwealth; and
 - (b) Digital property regardless of whether:
 1. The purchaser has the right to permanently use the property;
 2. The purchaser's right to access or retain the property is not permanent; or
 3. The purchaser's right of use is conditioned upon continued payment; and

(2) The furnishing of the following:

- (a) The rental of any room or rooms, lodgings, ***campsites***, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, ***campgrounds, recreational vehicle parks***, or any other place in which rooms, lodgings, ***campsites***, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, ***campsites***, or accommodations supplied for a continuous period of thirty (30) days or more to a person;
- (b) Sewer services;
- (c) The sale of admissions, except:
 - 1. ***Admissions to racetracks***~~those~~ taxed under KRS 138.480;
 - 2. ***Admissions to historical sites exempt under KRS 139.482; and***
 - 3. ***A portion of the admissions to county fairs exempt under KRS 139.470;***
- (d) Prepaid calling service and prepaid wireless calling service;
- (e) Intrastate, interstate, and international communications services as defined in KRS 139.195, except the furnishing of pay telephone service as defined in KRS 139.195;~~and~~
- (f) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:
 - 1. For natural gas that is classified as residential use as provided in KRS 139.470(7)~~(8)~~; or
 - 2. To a seller or reseller of natural gas;
- (g) ***Landscaping services, including but not limited to:***
 - 1. ***Lawn care and maintenance services;***
 - 2. ***Tree trimming, pruning, or removal services;***
 - 3. ***Landscape design and installation services;***
 - 4. ***Landscape care and maintenance services; and***
 - 5. ***Snow plowing or removal services;***
- (h) ***Janitorial services, including but not limited to residential and commercial cleaning services, and carpet, upholstery, and window cleaning services;***
- (i) ***Small animal veterinary services, excluding veterinary services for equine, cattle, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;***
- (j) ***Pet care services, including but not limited to grooming and boarding services, pet sitting services, and pet obedience training services;***
- (k) ***Industrial laundry services, including but not limited to industrial uniform supply services, protective apparel supply services, and industrial mat and rug supply services;***
- (l) ***Non-coin-operated laundry and dry cleaning services;***
- (m) ***Linen supply services, including but not limited to table and bed linen supply services and nonindustrial uniform supply services;***
- (n) ***Indoor skin tanning services, including but not limited to tanning booth or tanning bed services and spray tanning services;***
- (o) ***Non-medical diet and weight reducing services;***
- (p) ***Limousine services, if a driver is provided; and***
- (q) ***Extended warranty services.***

➔Section 38. KRS 139.220 is amended to read as follows:

It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax levied by KRS 139.200 or required to be collected under KRS 139.340 or any part thereof will be

assumed or absorbed by the retailer or that the tax will not be added to the selling price of the tangible personal property, ~~or~~ digital property, **or services** sold or that if added the tax or any part thereof will be refunded.

➔Section 39. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property, ~~and~~ digital property, **and services** sold by any person for delivery or access in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale **of**:

- (1) ***Tangible personal property or digital property*** unless the person takes from the purchaser a certificate to the effect that the property is either:
 - (a) ~~(1)~~ Purchased for resale according to the provisions of KRS 139.270;
 - (b) ~~(2)~~ Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or
 - (c) ~~(3)~~ Purchased according to administrative regulations promulgated by the department governing a direct pay authorization; **and**
- (2) ***A service unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270.***

➔Section 40. KRS 139.310 is amended to read as follows:

- (1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property, ~~and~~ digital property, **and extended warranty services** purchased for storage, use, or other consumption in this state at the rate of six percent (6%) of the sales price ~~of the property~~.
- (2) The excise tax applies to the purchase of digital property regardless of whether:
 - (a) The purchaser has the right to permanently use the goods;
 - (b) The purchaser's right to access or retain the digital property is not permanent; or
 - (c) The purchaser's right of use is conditioned upon continued payment.

➔Section 41. KRS 139.330 is amended to read as follows:

Every person storing, using or otherwise consuming in this state tangible personal property, ~~or~~ digital property, **or an extended warranty service** purchased from a retailer is liable for the use tax levied under KRS 139.310. His liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the department, under such rules and regulations as it may prescribe, to collect the tax and who is, for the purpose of this chapter relating to the use tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to KRS 139.340 is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

➔Section 42. KRS 139.340 is amended to read as follows:

- (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth.
- (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section includes any of the following:
 - (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, representative, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

- (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property,~~[-or]~~ digital property, ***or an extended warranty service***. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
- (c) Any retailer soliciting orders for tangible personal property,~~[-or]~~ digital property, ***or an extended warranty service*** from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
- (d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;
- (e) Any retailer soliciting orders for tangible personal property,~~[-or]~~ digital property, ***or an extended warranty service*** from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent or representative operating in this state under the authority of the retailer to repair or service tangible personal property or digital property sold by the retailer;~~[-or]~~
- (f) Any retailer located outside Kentucky that uses a representative in Kentucky, either full-time or part-time, if the representative performs any activities that help establish or maintain a marketplace for the retailer, including receiving or exchanging returned merchandise; ***or***
- (g) ***Any remote retailer selling tangible personal property or digital property delivered or transferred electronically to a purchaser in this state if:***
 - 1. ***The remote retailer sold tangible personal property or digital property that was delivered or transferred electronically to a purchaser in this state in two hundred (200) or more separate transactions in the previous calendar year or the current calendar year; or***
 - 2. ***The remote retailer's gross receipts derived from the sale of tangible personal property or digital property delivered or transferred electronically to a purchaser in this state in the previous calendar year or current calendar year exceeds one hundred thousand dollars (\$100,000).***

➔Section 43. KRS 139.390 is amended to read as follows:

Every retailer selling tangible personal property,~~[-or]~~ digital property, ***or an extended warranty service*** for storage, use or other consumption in this state shall register with the department and give:

- (1) The name and address of all agents operating in this state;
- (2) The location of all distribution or sales houses or offices or other places of business in this state;
- (3) Such other information as the department may require.

➔Section 44. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;
- (3) (a) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production.
- (b) Cost of production shall be computed on the basis of ***a plant facility,***~~[-facilities]~~ ***which shall include all operations within the continuous, unbroken, integrated manufacturing or industrial processing process that ends with a product packaged and ready for sale.***~~[-mean all permanent structures affixed to real property at one (1) location;]~~

- (c) *If a person who independently performs a manufacturing or industrial processing production activity for a fee, applies for the exemption under this subsection, and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of the manufacturing or industrial processing activity, then all costs of production, including raw material costs, shall be allocated in proportion to all manufacturing or industrial processing operations at the plant facility;*
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery":
- (a) Means machinery used exclusively and directly in the occupation of:
 1. Tilling the soil for the production of crops as a business;
 2. Raising and feeding livestock or poultry for sale; or
 3. Producing milk for sale;
 - (b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and
 - (c) Does not include:
 1. Automobiles;
 2. Trucks;
 3. Trailers, except combine header trailers; or
 4. Truck-trailer combinations;
- (12) ~~{Property which has been certified as a pollution control facility as defined in KRS 224.1-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;~~
- ~~(13) — } Tombstones and other memorial grave markers;~~
- (13)~~{(14)}~~ On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

- ~~(14)~~~~(15)~~ On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- ~~(15)~~~~(16)~~ Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
- (a) Operate farm machinery as defined in subsection (11) of this section;
 - (b) Operate on-farm grain or soybean drying facilities as defined in subsection ~~(13)~~~~(14)~~ of this section;
 - (c) Operate on-farm poultry or livestock facilities defined in subsection ~~(14)~~~~(15)~~ of this section;
 - (d) Operate on-farm ratite facilities defined in subsection ~~(23)~~~~(24)~~ of this section;
 - (e) Operate on-farm llama or alpaca facilities as defined in subsection ~~(25)~~~~(26)~~ of this section; or
 - (f) Operate on-farm dairy facilities;
- ~~(16)~~~~(17)~~ Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- ~~(17)~~~~(18)~~ Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- ~~(18)~~~~(19)~~ Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- ~~(19)~~~~(20)~~ Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- ~~(20)~~~~(21)~~
- (a)
 - 1. Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures as part of an approved supplemental project, as defined by KRS 154.26-010; and
 - 2. Materials, supplies, and repair or replacement parts purchased for use in the operation and maintenance of a blast furnace and related carbon steel-making operations as part of an approved supplemental project, as defined by KRS 154.26-010.
 - (b) The exemptions provided in this subsection shall be effective for sales made:
 - 1. On and after July 1, 2018; and
 - 2. During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;
- ~~(21)~~~~(22)~~ Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- ~~(22)~~~~(23)~~ Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- ~~(23)~~~~(24)~~ Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems,

ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

- ~~(24)~~~~(25)~~ Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- ~~(25)~~~~(26)~~ Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- ~~(26)~~~~(27)~~ Baling twine and baling wire for the baling of hay and straw;
- ~~(27)~~~~(28)~~ Water sold to a person regularly engaged in the business of farming and used in the:
- (a) Production of crops;
 - (b) Production of milk for sale; or
 - (c) Raising and feeding of:
 - 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
 - 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- ~~(28)~~~~(29)~~ Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- ~~(29)~~~~(30)~~ Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Water;
 - (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment,

machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

~~(30)(31)~~ Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:

- (a) Feed and feed additives;
- (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
- (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

~~(31)(32)~~ (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation; and

(c) For the purposes of this subsection, "repair or replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair or replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes; and

~~(32)(33)~~ Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy.

➔Section 45. KRS 139.510 is amended to read as follows:

(1) The tax levied by KRS 139.310 shall not apply with respect to the storage, use, or other consumption of tangible personal property, ~~or~~ digital property, **or extended warranty services** in this state upon which a tax substantially identical to the tax levied under KRS 139.200 (not including any special excise taxes such as are imposed on alcoholic beverages, cigarettes, and the like) equal to or greater than the amount of tax imposed by KRS 139.310 has been legally paid in another state. Proof of payment of such tax shall be according to rules and regulations of the department. If the amount of tax paid in another state is not equal to or greater than the amount of tax imposed by KRS 139.310, then the taxpayer shall pay to the department an amount sufficient to make the tax paid in the other state and in this state equal to the amount imposed by KRS 139.310. No credit shall be given under this section for sales taxes paid in another state if that state does not grant credit for sales taxes paid in this state.

(2) To prevent actual multistate taxation of a communications service subject to taxation under this chapter, any provider or purchaser, upon proof that the provider or purchaser has paid a tax in another state on the same communications services, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of the tax legally paid in the other state.

➔Section 46. KRS 139.538 is amended to read as follows:

(1) It is the intent and purpose of the General Assembly in enacting this section and 139.990(5), to encourage the motion picture industry to choose locations in the Commonwealth for the filming or producing of motion pictures, by providing an exemption from sales and use taxes. The exemption is accomplished by granting a refundable credit for sales and use taxes paid on purchases made in connection with the filming or producing of motion pictures in Kentucky.

(2) (a) ***On or after the effective date of this Act, and until July 1, 2022, the department shall not accept any new applications as provided by subsection (4) of this section.***

(b) *On or before June 1, 2019, the department shall provide the following information to the Interim Joint Committee on Appropriations and Revenue for all fiscal years data is available:*

- 1. The name of the motion picture company;*
- 2. The filming location or locations in this state;*
- 3. A brief description of the production;*
- 4. The amount of sales and use tax refunded; and*
- 5. The total amount of all sales and use tax refunded to motion picture production companies during each fiscal year reported.*

(3) As used in this section and KRS 139.990(5):

- (a) "Financial institution" means any bank or savings and loan institution in the Commonwealth which carries FDIC or FSLIC insurance;
- (b) "Motion picture production company" means a company engaged in the business of producing motion pictures intended for a theatrical release or for exhibition on national television either by a network or for national syndication, or television programs which will serve as a pilot for or a segment of a nationally televised dramatic series, either by a network or for national syndication; and
- (c) "Secretary" means the secretary of the Kentucky Finance and Administration Cabinet.

~~(4)(3)~~ Any motion picture production company that intends to film all or parts of a motion picture in the Commonwealth and desires to receive the credit provided for in subsection ~~(7)(6)~~ of this section shall, prior to the commencement of filming:

- (a) Provide the department with the address of a Kentucky location at which records of expenditures qualifying for the tax credit will be maintained, and with the name of the individual maintaining these records; and
- (b) File an application for the tax credit within sixty (60) days after the completion of filming or production in Kentucky. The application shall include a final expenditure report providing documentation for expenditures in accordance with administrative regulations promulgated by the department.

~~(5)(4)~~ To qualify as a basis for the financial incentive, expenditures must be made by check drawn upon any Kentucky financial institution.

~~(6)(5)~~ The twelve (12) month period during which expenditures may qualify for the tax credit shall begin on the date of the earliest expenditure reported.

~~(7)(6)~~ Any motion picture production company which films or produces one (1) or more motion pictures in the Commonwealth during any twelve (12) month period shall, upon making application therefor and meeting the other requirements prescribed in this section, be entitled to a refundable tax credit equal to the amount of Kentucky sales and use tax paid for purchases made in connection with the filming or production of a motion picture.

~~(8)(7)~~ The department shall, within sixty (60) days following the receipt of an application for a credit for sales and use tax paid, calculate the total expenditures of the motion picture production company for which there is documentation for funds expended in the Commonwealth, calculate the amount of credit to which the applicant is entitled, and certify the amount of the credit to the secretary. In the case of an audit, as provided for in subsection ~~(13)(12)~~ of this section, the department shall certify the amount of the credit due to the secretary within one hundred eighty (180) days following the receipt of the motion picture production company's application.

~~(9)(8)~~ Upon receipt of the certification of the amount of credit from the department, the secretary shall cause the refund of sales taxes paid to be remitted to the motion picture production company. For purposes of payment and funding thereof, the credit shall be paid in the same manner as other claims on the State Treasury are paid. They shall not be charged against any appropriation but shall be deducted from tax receipts for the current fiscal year.

~~(10)(9)~~ The sales and use taxes paid by the motion picture production company for which a refundable tax credit is granted shall be deemed not to have been legally paid into the State Treasury, and the refund of the credit shall not be in violation of Section 59 of the Kentucky Constitution.

- (11)~~(10)~~ Any tax credit or part thereof paid to a motion picture production company as a result of error by the department shall be repaid by such company to the secretary.
- (12)~~(11)~~ Any tax credit or part thereof paid to a motion picture production company as a result of error or fraudulent statements made by the motion picture production company shall be repaid by such company to the secretary, together with interest, at the tax interest rate provided for in KRS 131.010(6).
- (13)~~(12)~~ The department may require that reported expenditures and the application for the tax credit from a motion picture production company be subjected to an audit by the department auditors to verify expenditures.
- (14)~~(13)~~ For companies in the business of producing films or television shows other than those which would qualify them for the credit under the definition of "motion picture production company," the department may require separate accounting records for the reporting of expenditures made in connection with the application for a refundable tax credit.
- (15)~~(14)~~ The department may promulgate appropriate administrative regulations to carry out the intent and purposes of this section.

➔Section 47. KRS 139.550 is amended to read as follows:

- (1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the department in a form the department may prescribe.
- (2) For purposes of the sales tax, a return shall be filed by every retailer or seller. For purposes of the use tax, a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property,~~[-or]~~ digital property, *or an extended warranty service*, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.
- (3) Returns shall be signed by the person required to file the return or by a duly authorized agent but need not be verified by oath.
- (4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under rules as the department shall provide for the efficient collection of the sales tax on sales.
- (5) The return shall show the amount of the taxes for the period covered by the return and other information the department deems necessary for the proper administration of this chapter.

➔Section 48. KRS 139.700 is amended to read as follows:

The department may, in its discretion, upon application authorize the collection of the tax imposed herein by any retailer not engaged in business within this state who, to the satisfaction of the department furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued a permit to collect such tax in such manner, and subject to such regulation and agreements as the department shall prescribe. When so authorized, it shall be the duty of such retailer to collect the tax upon all tangible personal property,~~[-or]~~ digital property, *or extended warranty services* sold to his knowledge for use within this state, in the same manner and subject to the same requirements as a retailer engaged in business within this state.

➔Section 49. KRS 139.720 is amended to read as follows:

- (1) Every seller, every retailer, and every person storing, using and otherwise consuming in this state tangible personal property,~~[-or]~~ digital property, *or an extended warranty service* purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the department may require.
- (2) Every such seller, retailer, or person who files the returns required under this chapter shall keep such records for not less than four (4) years from the making of such records unless the department in writing sooner authorizes their destruction.

➔Section 50. KRS 139.730 is amended to read as follows:

In the administration of the sales and use tax, the department may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property,~~[-or]~~ digital property, *or an extended warranty service*, the storage, use, or other consumption of which is subject to the

tax. The report shall be filed at the time specified by the department and shall contain such information as the department may require.

➔Section 51. KRS 139.740 is amended to read as follows:

- (1) No judgment shall be entered and no garnishment or attachment shall be permitted by any court in this Commonwealth in an action for the collection of a debt arising out of the sale of tangible personal property, ~~or~~ digital property, **or extended warranty services** unless an affidavit containing a certificate of service is executed by the plaintiff to the effect that all use taxes due the Commonwealth have been paid.
- (2) Prior to the filing of the affidavit, required under subsection (1) of this section, the plaintiff (including counterclaimants or crossclaimants) shall, by first-class mail, serve upon the department a copy of the affidavit. Within fifteen (15) days from the date of the filing of the affidavit the department may file a counteraffidavit. In such event no judgment shall be entered or garnishment or attachment issued until proof has been taken concerning the matters at issue in the affidavit and counteraffidavit.
- (3) In the event the use tax levied by this chapter is found to be due and unpaid the plaintiff may elect to pay the tax to the department, and the amount of the tax paid by the plaintiff shall be recovered as a part of any judgment entered. If the plaintiff does not elect to pay the use tax found to be due and unpaid, judgment for the amount of the tax shall be awarded to the Commonwealth.
- (4) Any judgment awarded to the Commonwealth under this section shall constitute a prior claim to any judgment obtained by the plaintiff.
- (5) Tax as defined herein includes interest accrued thereon at the tax interest rate as defined in KRS 131.010(6).
- (6) The provisions of this section shall not apply to a plaintiff holding a retail permit issued pursuant to this chapter.

➔SECTION 52. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The definitions in this section are the same as the definitions appearing in KRS 141.010 prior to its repeal and reenactment in Section 53 of this Act. For taxable years beginning prior to January 1, 2018, as used in this chapter, unless the context requires otherwise:

- (1) *"Commissioner" means the commissioner of the department;*
- (2) *"Department" means the Department of Revenue;*
- (3) *"Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2015, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2015, that would otherwise terminate, and as modified by KRS 141.0101;*
- (4) *"Dependent" means those persons defined as dependents in the Internal Revenue Code;*
- (5) *"Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;*
- (6) *"Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;*
- (7) *"Individual" means a natural person;*
- (8) *"Modified gross income" means the greater of:*
 - (a) *Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:*
 1. *Include interest income derived from obligations of sister states and political subdivisions thereof; and*
 2. *Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or*
 - (b) *Adjusted gross income as defined in subsection (10) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);*
- (9) *"Gross income," in the case of taxpayers other than corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code;*
- (10) *"Adjusted gross income," in the case of taxpayers other than corporations, means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal*

Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

- (a) *Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;*
- (b) *Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;*
- (c) *Include interest income derived from obligations of sister states and political subdivisions thereof;*
- (d) *Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;*
- (e) *Exclude Social Security and railroad retirement benefits subject to federal income tax;*
- (f) *Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;*
- (g) *Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;*
- (h) *Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;*
- (i)
 1. *For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans. The "applicable amount" shall be:*
 - a. *Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;*
 - b. *Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;*
 - c. *Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and*
 - d. *One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.*
 2. *For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.*
 3. *As used in this paragraph:*
 - a. *"Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;*
 - b. *"Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and*
 - c. *"Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans*

- qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;*
- (j) *1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and*
 - b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.*
 - 2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;*
 - (k) *Exclude, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents, or for any person authorized to be provided excludable coverage by the taxpayer pursuant to the federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, or the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;*
 - (l) *Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;*
 - (m) *Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;*
 - (n) *Exclude any capital gains income attributable to property taken by eminent domain;*
 - (o) *Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;*
 - (p) *Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;*
 - (q) *Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;*
 - (r) *Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;*
 - (s) *Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;*
 - (t) *Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries; and*
 - (u) *For taxable years beginning on or after January 1, 2010, exclude all military pay received by active duty members of the Armed Forces of the United States, members of reserve components of the Armed Forces of the United States, and members of the National Guard, including compensation for state active duty as described in KRS 38.205;*
 - (11) *"Net income," in the case of taxpayers other than corporations, means adjusted gross income as defined in subsection (10) of this section, minus:*
 - (a) The deduction allowed by KRS 141.0202;*
 - (b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;*

- (c) *For taxable years beginning on or after January 1, 2010, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and*
 - (d) *1. All the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except:*
 - a. Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;*
 - b. Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);*
 - c. The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof;*
 - d. For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;*
 - e. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;*
 - f. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under this chapter;*
 - g. The itemized deduction limitation established in 26 U.S.C. sec. 68 shall be determined using the applicable amount from 26 U.S.C. sec. 68 as it existed on December 31, 2006; and*
 - h. A taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63 and as modified by this section; and*
 - 2. Nothing in this chapter shall be construed to permit the same item to be deducted more than once;*
- (12) *"Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:*
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;*
 - (b) Exclude all dividend income received after December 31, 1969;*
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;*
 - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;*
 - (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;*

- (f) *Include the amount calculated under KRS 141.205;*
 - (g) *Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;*
 - (h) *Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);*
 - (i) *Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;*
 - (j) *Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;*
 - (k) *Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;*
 - (l) *Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;*
 - (m) *For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and*
 - (n) *Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;*
- (13) *"Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus:*
- (a) *The deduction allowed by KRS 141.0202;*
 - (b) *Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;*
 - (c) *For taxable years beginning on or after January 1, 2010, the amount of domestic production activities deduction calculated at six percent (6%) as allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years beginning before 2010; and*
 - (d) *All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except:*
 - 1. *Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;*
 - 2. *The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;*
 - 3. *The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;*
 - 4. *Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;*
 - 5. *Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);*
 - 6. *Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except*

nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

7. *Any deduction prohibited by KRS 141.205;*
 8. *Any dividends-paid deduction of any captive real estate investment trust; and*
 9. *For taxable years beginning on or after January 1, 2010, the domestic production activities deduction allowed under Section 199 of the Internal Revenue Code;*
- (14) (a) *"Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;*
 - (b) *"Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under Section 59 of this Act. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;*
 - (c) *"Taxable net income," in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and*
 - (d) *"Taxable net income," in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;*
- (15) *"Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;*
 - (16) *"Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;*
 - (17) *"Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;*
 - (18) *"Nonresident" means any individual not a resident of this state;*
 - (19) *"Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;*
 - (20) *"Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;*
 - (21) *"Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero (0);*
 - (22) *"Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;*
 - (23) *"Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;*
 - (24) (a) *For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and*
 - (b) *For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:*

1. *"Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;*
2. *S corporations as defined in Section 1361(a) of the Internal Revenue Code;*
3. *A foreign limited liability company as defined in KRS 275.015;*
4. *A limited liability company as defined in KRS 275.015;*
5. *A professional limited liability company as defined in KRS 275.015;*
6. *A foreign limited partnership as defined in KRS 362.2-102(9);*
7. *A limited partnership as defined in KRS 362.2-102(14);*
8. *A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or (8);*
9. *A real estate investment trust as defined in Section 856 of the Internal Revenue Code;*
10. *A regulated investment company as defined in Section 851 of the Internal Revenue Code;*
11. *A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;*
12. *A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and*
13. *Other similar entities created with limited liability for their partners, members, or shareholders.*

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

(25) *"Doing business in this state" includes but is not limited to:*

- (a) *Being organized under the laws of this state;*
- (b) *Having a commercial domicile in this state;*
- (c) *Owning or leasing property in this state;*
- (d) *Having one (1) or more individuals performing services in this state;*
- (e) *Maintaining an interest in a pass-through entity doing business in this state;*
- (f) *Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or*
- (g) *Directing activities at Kentucky customers for the purpose of selling them goods or services.*

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

- (26) *"Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;*
- (27) *"S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code;*
- (28) *"Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity; and*
- (29) *"Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:*

- (a) 1. *The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or*
- 2. *The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission; and*
- (b) 1. *The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:*
 - a. *Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or*
 - b. *Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.*

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation;
- 2. *For the purposes of this paragraph:*
 - a. *"Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to the provisions of KRS 141.200; and*
 - b. *"Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and*
- (c) *The real estate investment trust is not owned by another real estate investment trust.*

➔SECTION 53. KRS 141.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter, for taxable years beginning on or after January 1, 2018:

- (1) *"Adjusted gross income," in the case of taxpayers other than corporations, means the amount calculated in Section 55 of this Act;*
- (2) *"Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:*
 - (a) 1. *The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or*
 - 2. *The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission;*
 - (b) 1. *The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:*
 - a. *Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or*
 - b. *Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.*

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation; and
 - 2. *For the purposes of this paragraph:*
 - a. *"Corporation" means a corporation taxable under Section 58 of this Act, and includes an affiliated group as defined in Section 79 of this Act, that is required to file a consolidated return pursuant to the provisions of Section 79 of this Act; and*
 - b. *"Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive*

ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and

- (c) *The real estate investment trust is not owned by another real estate investment trust;*
 - (3) *"Commissioner" means the commissioner of the department;*
 - (4) *"Corporation" has the same meaning as in Section 7701(a)(3) of the Internal Revenue Code;*
 - (5) *"Department" means the Department of Revenue;*
 - (6) *"Dependent" means those persons defined as dependents in the Internal Revenue Code;*
 - (7) *"Doing business in this state" includes but is not limited to:*
 - (a) *Being organized under the laws of this state;*
 - (b) *Having a commercial domicile in this state;*
 - (c) *Owning or leasing property in this state;*
 - (d) *Having one (1) or more individuals performing services in this state;*
 - (e) *Maintaining an interest in a pass-through entity doing business in this state;*
 - (f) *Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or*
 - (g) *Directing activities at Kentucky customers for the purpose of selling them goods or services.*
- Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;*
- (8) *"Employee" has the same meaning as in Section 3401(c) of the Internal Revenue Code;*
 - (9) *"Employer" has the same meaning as in Section 3401(d) of the Internal Revenue Code;*
 - (10) *"Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue Code;*
 - (11) *"Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal Revenue Code;*
 - (12) *"Gross income":*
 - (a) *In the case of taxpayers other than corporations, has the same meaning as in Section 61 of the Internal Revenue Code; and*
 - (b) *In the case of corporations, means the amount calculated in Section 56 of this Act;*
 - (13) *"Individual" means a natural person;*
 - (14) *"Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2017, including the provisions contained in Pub. L. No. 115-97, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2017, that would otherwise terminate;*
 - (15) *"Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity;*
 - (16) *"Modified gross income" means the greater of:*
 - (a) *Adjusted gross income as defined in 26 U.S.C. sec. 62, including any amendments in effect on December 31 of the taxable year, and adjusted as follows:*
 - 1. *Include interest income derived from obligations of sister states and political subdivisions thereof; and*
 - 2. *Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or*

- (b) *Adjusted gross income as defined in subsection (1) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);*
- (17) *"Net income":*
- (a) *In the case of taxpayers other than corporations, means the amount calculated in Section 55 of this Act; and*
- (b) *In the case of corporations, means the amount calculated in Section 56 of this Act;*
- (18) *"Nonresident" means any individual not a resident of this state;*
- (19) *"Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under Section 83 of this Act, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;*
- (20) *"Part-year resident" means any individual that has established or abandoned Kentucky residency during the calendar year;*
- (21) *"Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;*
- (22) *"Payroll period" has the same meaning as in Section 3401(b) of the Internal Revenue Code;*
- (23) *"Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code;*
- (24) *"Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;*
- (25) *"S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue Code;*
- (26) *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;*
- (27) *"Taxable net income":*
- (a) *In the case of corporations that are taxable in this state, means "net income" as defined in subsection (17) of this section;*
- (b) *In the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (17) of this section and as allocated and apportioned under Section 60 of this Act;*
- (c) *For homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (14) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and*
- (d) *For a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;*
- (28) *"Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under administrative regulations prescribed by the commissioner, "taxable year" means the period for which the return is made; and*
- (29) *"Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.*

➔SECTION 54. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *All deductions allowed by this chapter shall be limited to amounts directly or indirectly allocable to income subject to taxation under the provisions of this chapter.*

- (b) *Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under this chapter shall not be allowed.*
- (2) *Nothing in this chapter shall be construed to permit the same item to be deducted more than once.*

➔SECTION 55. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

For taxable years beginning on or after January 1, 2018, in the case of taxpayers other than corporations:

- (1) *Adjusted gross income shall be calculated by subtracting from the gross income of those taxpayers the deductions allowed individuals by Section 62 of the Internal Revenue Code and adjusting as follows:*
 - (a) *Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;*
 - (b) *Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Pub. L. No. 89-699;*
 - (c) *Include interest income derived from obligations of sister states and political subdivisions thereof;*
 - (d) *Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;*
 - (e) *Exclude Social Security and railroad retirement benefits subject to federal income tax;*
 - (f) *Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;*
 - (g) *1. a. For taxable years beginning after December 31, 2005, but before January 1, 2018, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans; and*
b. For taxable years beginning on or after January 1, 2018, exclude up to thirty-one thousand one hundred ten dollars (\$31,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
2. As used in this paragraph:
 - a. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code;*
 - b. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution; and*
 - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;*
- (h) *1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and*
b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. *The shareholder's basis of stock held in an S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;*
- (i) *Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primaries or regular or special elections;*
- (j) *Exclude any capital gains income attributable to property taken by eminent domain;*
- (k)
 1. *Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred.*
 2. *For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;*
- (l) *Exclude all military pay received by active duty members of the Armed Forces of the United States, members of reserve components of the Armed Forces of the United States, and members of the National Guard, including compensation for state active duty as described in KRS 38.205;*
- (m)
 1. *Include the amount deducted for depreciation under 26 U.S.C. sec. 167 or 168; and*
 2. *Exclude the amounts allowed by KRS 141.0101 for depreciation; and*
- (n) *Include the amount deducted under 26 U.S.C. sec. 199A; and*
- (2) *Net income shall be calculated by subtracting from adjusted gross income all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:*
 - (a) *Any deduction allowed by 26 U.S.C. sec. 163 for investment interest;*
 - (b) *Any deduction allowed by 26 U.S.C. sec. 164 for taxes;*
 - (c) *Any deduction allowed by 26 U.S.C. sec. 165 for losses;*
 - (d) *Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;*
 - (e) *Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;*
 - (f) *Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous deduction;*
 - (g) *Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that the deduction has not been claimed under KRS 140.090(1)(h);*
 - (h) *Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and any other deductions in lieu thereof;*
 - (i) *Any deduction allowed for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and*
 - (j) *A taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63 and as modified by this section.*

➔SECTION 56. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

For taxable years beginning on or after January 1, 2018, in the case of corporations:

- (1) *Gross income shall be calculated by adjusting federal gross income as defined in Section 61 of the Internal Revenue Code as follows:*

- (a) *Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;*
- (b) *Exclude all dividend income;*
- (c) *Include interest income derived from obligations of sister states and political subdivisions thereof;*
- (d) *Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;*
- (e) *Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;*
- (f) *Include the amount calculated under Section 80 of this Act;*
- (g) *Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;*
- (h) *Include the amount of depreciation deduction calculated under 26 U.S.C. sec. 167 or 168; and*
- (2) *Net income shall be calculated by subtracting from gross income:*
 - (a) *The deduction for depreciation allowed by KRS 141.0101;*
 - (b) *Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families; and*
 - (c) *All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:*
 - 1. *Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;*
 - 2. *The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;*
 - 3. *The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;*
 - 4. *Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;*
 - 5. *Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;*
 - 6. *Any deduction prohibited by Section 80 of this Act; and*
 - 7. *Any dividends-paid deduction of any captive real estate investment trust.*

➔Section 57. KRS 141.020 is amended to read as follows:

- (1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.

- (2) (a) ***For taxable years beginning on or after January 1, 2018, the tax shall be five percent (5%) of net income.***~~For taxable years beginning before January 1, 2005, the tax shall be determined by applying the following rates to net income:~~
- ~~1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);~~
 - ~~2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);~~
 - ~~3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);~~
 - ~~4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000); and~~
 - ~~5. Six percent (6%) of the amount of net income over eight thousand dollars (\$8,000).~~
- (b) For taxable years beginning after December 31, 2004, ***and before January 1, 2018,*** the tax shall be determined by applying the following rates to net income:
1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
 2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
 3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
 4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);
 5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
 6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).
- (3) (a) ~~For taxable years beginning before January 1, 2014,~~ The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:
1. *a. For taxable years beginning before January 1, 2014,* twenty dollars (\$20) for an unmarried individual; *and*
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018,* ten dollars (\$10) for an unmarried individual;
 2. *a. For taxable years beginning before January 1, 2014,* twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code; *and*
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018,* ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of a taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;
 3. *a. For taxable years beginning before January 1, 2014,* twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his *or her* spouse; *and*

- b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse;*
4. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
 5. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
 6. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
 8. *In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);*
 9. *In the case of an estate, the allowable tax credit shall be ten dollars (\$10); and*
 10. *An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.*
- (b) In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by *Section 55 of this Act*~~[KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection,]~~ to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:
- 1.~~[a.]~~ The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
 - 2.~~[b.]~~ Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by *Section 55 of this Act*~~[KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection,]~~ to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.~~[;]~~
- (c)~~[9.]~~ In the case of *a part-year resident*~~[an individual who becomes a resident of Kentucky during the taxable year,]~~ the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by *Section 55 of this Act*~~[subsection (10) of KRS 141.010, without the adjustments contained in paragraphs (f) and (g) of that subsection,]~~ to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code~~;~~
- 10.~~—~~ ~~In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);~~
 - 11.~~—~~ ~~In the case of an estate, the allowable tax credit shall be twenty dollars (\$20); and~~
 - 12.~~—~~ ~~An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.~~
- (b) ~~1. For taxable years beginning on or after January 1, 2014, the following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:~~
- a.~~—~~ ~~Ten dollars (\$10) for an unmarried individual;~~
 - b.~~—~~ ~~Ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars~~

~~(\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;~~

- ~~e. Ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;~~
- ~~d. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty five (65) before the close of the taxable year;~~
- ~~e. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;~~
- ~~f. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;~~
- ~~g. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;~~
- ~~h. In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);~~
- ~~i. In the case of an estate, the allowable tax credit shall be ten dollars (\$10); and~~
- ~~j. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.~~

~~2. In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:~~

- ~~a. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or~~
- ~~b. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.~~

~~3. In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code].~~

- (4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.

- (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
- (6) *A part-year resident*~~[An individual who becomes a resident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (4) of this section prior to establishing residence and as prescribed in subsection (1) of this section following the establishment of residence.~~
- ~~(7) An individual who becomes a nonresident of Kentucky during the taxable year~~ is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.

➔Section 58. KRS 141.040 is amended to read as follows:

- (1) Every corporation doing business in this state, except those corporations listed in paragraphs (a) to ~~(h)~~~~(i)~~ of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income~~[or the alternative minimum calculation computed under this section]~~ at the rates specified in this section:
- (a) Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 286.3-135;
 - (b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
 - (c) Banks for cooperatives;
 - (d) Production credit associations;
 - (e) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
 - (f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
 - (g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;
and
 - (h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:
 - 1. The property consists of the final printed product, or copy from which the printed product is produced; and
 - 2. The corporation has no individuals receiving compensation in this state as provided in KRS 141.120(8)(b)~~); and~~
 - ~~(i) For all taxable years except those beginning after December 31, 2004, and before January 1, 2007, S corporations.~~
- ~~(2) For tax years ending before January 1, 1990, the following rates shall apply:~~
- ~~(a) Three percent (3%) of the first twenty five thousand dollars (\$25,000) of taxable net income;~~
 - ~~(b) Four percent (4%) of the amount of taxable net income in excess of twenty five thousand dollars (\$25,000), but not in excess of fifty thousand dollars (\$50,000);~~
 - ~~(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);~~
 - ~~(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and~~
 - ~~(e) Seven and twenty five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).~~
- ~~(3) For tax years beginning after December 31, 1989, and before January 1, 2005, the following rates shall apply:~~
- ~~(a) Four percent (4%) of the first twenty five thousand dollars (\$25,000) of taxable net income;~~
 - ~~(b) Five percent (5%) of the amount of taxable net income in excess of twenty five thousand dollars (\$25,000) but not in excess of fifty thousand dollars (\$50,000);~~

- ~~(c) Six percent (6%) of the amount of taxable net income in excess of fifty thousand dollars (\$50,000), but not in excess of one hundred thousand dollars (\$100,000);~~
- ~~(d) Seven percent (7%) of the amount of taxable net income in excess of one hundred thousand dollars (\$100,000), but not in excess of two hundred fifty thousand dollars (\$250,000); and~~
- ~~(e) Eight and twenty five one hundredths percent (8.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars (\$250,000).~~
- (4) For tax years beginning before January 1, 1990, and ending after December 31, 1989, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:
 - ~~(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through December 31, 1989, and the denominator of which is the total number of days of the taxable year; and~~
 - ~~(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from January 1, 1990, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.~~
- (5) For taxable years beginning after December 31, 2004, and before January 1, 2007, corporations subject to the tax imposed by this section shall pay the greater of the tax computed under paragraph (a) of this subsection, the tax computed under paragraph (b)1. or 2. of this subsection, or the minimum tax imposed by subsection (7) of this section. The tax computed under this subsection is as follows:
 - (a) 1. Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;
 - 2. Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and
 - 3. Seven percent (7%) of taxable net income over one hundred thousand dollars (\$100,000); or
 - (b) An alternative minimum calculation of an amount equal to the lesser of the amount computed under subparagraph 1. or 2. of this paragraph:
 - 1. The gross receipts calculation contained in subsection (11) of this section; or
 - 2. The gross profits calculation contained in subsection (12) of this section].
- (2) *For taxable years beginning on or after January 1, 2018, the rate of five percent (5%) of taxable net income shall apply.*
- (3)~~(6)~~ For taxable years beginning on or after January 1, 2007, *and before January 1, 2018*, the following rates shall apply:
 - (a) Four percent (4%) of the first fifty thousand dollars (\$50,000) of taxable net income;
 - (b) Five percent (5%) of taxable net income over fifty thousand dollars (\$50,000) up to one hundred thousand dollars (\$100,000); and
 - (c) Six percent (6%) of taxable net income over one hundred thousand dollars (\$100,000).
- ~~{(7) For taxable years beginning on or after January 1, 2005, and before January 1, 2007, a minimum of one hundred seventy five dollars (\$175) shall be due for the taxable year from each corporation subject to the tax imposed by this section, regardless of the application of any tax credits provided under this chapter or any other provision of the Kentucky Revised Statutes for which the business entity may qualify.~~
- ~~(8) The alternative minimum calculation portion of the tax computation provided in subsection (5) of this section shall not apply to:~~
 - ~~(a) Public service corporations subject to tax under KRS 136.120;~~
 - ~~(b) Open end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;~~
 - ~~(c) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;~~

- ~~(d) — An alcohol production facility as defined in KRS 247.910; and~~
- ~~(e) — For taxable years beginning after December 31, 2005, and before January 1, 2007, political organizations as defined in Internal Revenue Code Section 527 and related regulations.~~
- ~~(9) — For taxable years beginning after December 31, 2004, and before January 1, 2007:~~
 - ~~(a) — As used in this subsection, "qualified exempt organization" means an entity listed in subsection (1)(a) to (h) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.~~
 - ~~(b) — Notwithstanding any other provisions of this section or KRS 141.010, any corporation of the type listed in KRS 141.010(24)(b)2. to 8. that is owned in whole or in part by a qualified exempt organization shall, in calculating its taxable net income, gross receipts, or Kentucky gross profits, exclude the proportionate share of its taxable net income, gross receipts, or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.~~
 - ~~(c) — Any corporation that reduces taxable net income, gross receipts, or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under KRS 141.420.~~
 - ~~(d) — The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.~~
- ~~(10) — For taxable years beginning after December 31, 2004, and before January 1, 2007:~~
 - ~~(a) — To the extent that a corporation identified in KRS 141.010(24)(b)2. to 8. is doing business in this state, any member, shareholder or partner of the corporation may elect to pay, on behalf of the corporation, his, her or its proportionate share of the tax imposed by this section against the corporation. If an election is made, the electing member, shareholder or partner shall be treated in the same manner as the corporation regarding the proportionate part of the tax paid by the member, shareholder or partner. An election made pursuant to this subsection shall not:
 - ~~1. — Be used by the Department of Revenue or the taxpayer to assert that the party making the election is doing business in Kentucky;~~
 - ~~2. — Result in an increase of the amount of credit allowable under KRS 141.420; or~~
 - ~~3. — Apply to any corporation that is required to be included in a consolidated return under KRS 141.200(2) to (5) and (9) to (12).~~~~
 - ~~(b) — The Department of Revenue shall prescribe forms and promulgate regulations to execute and administer the provisions of this subsection.~~
- ~~(11) — The alternative minimum calculation for gross receipts shall be:~~
 - ~~(a) — For taxable years beginning on or after January 1, 2005, and before January 1, 2006, nine and one half cents (\$0.095) per one hundred dollars (\$100) of the corporation's Kentucky gross receipts; and~~
 - ~~(b) — For taxable years beginning on or after January 1, 2006, and before January 1, 2007:~~
 - ~~1. — If the corporation's gross receipts from all sources are three million dollars (\$3,000,000) or less, the alternative minimum calculation shall be zero;~~
 - ~~2. — If the corporation's gross receipts from all sources are greater than three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the alternative minimum calculation shall be nine and one half cents (\$0.095) per one hundred dollars (\$100) of the corporation's Kentucky gross receipts, reduced by an amount equal to two thousand eight hundred fifty dollars (\$2,850) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's Kentucky gross receipts for the taxable year, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;~~
 - ~~3. — If the corporation's gross receipts from all sources are equal to or greater than six million dollars (\$6,000,000), the alternative minimum calculation shall be nine and one half cents (\$0.095) per one hundred dollars (\$100) of the corporation's Kentucky gross receipts.~~

~~In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross receipts of the affiliated group shall include the total gross receipts from all sources of the affiliated group, including eliminating entries for transactions among the group.~~

~~(12) The alternative minimum calculation for gross profits shall be:~~

- ~~(a) For taxable years beginning on or after January 1, 2005, and before January 1, 2006, seventy five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits; and~~
- ~~(b) For taxable years beginning on or after January 1, 2006, and before January 1, 2007:~~
 - ~~1. If the corporation's gross profits from all sources are three million dollars (\$3,000,000) or less, the tax shall be zero;~~
 - ~~2. If the corporation's gross profits from all sources are at least three million dollars (\$3,000,000) but less than six million dollars (\$6,000,000), the tax shall be seventy five cents (\$0.75) per one hundred dollars (\$100) of the corporation's Kentucky gross profits, reduced by an amount equal to twenty two thousand five hundred dollars (\$22,500) multiplied by a fraction, the numerator of which is six million dollars (\$6,000,000) less the amount of the corporation's Kentucky gross profits, and the denominator of which is three million dollars (\$3,000,000), but in no case shall the result be less than zero;~~
 - ~~3. If the corporation's gross profits from all sources are equal to or greater than six million dollars (\$6,000,000), the tax shall be seventy five cents (\$0.75) per one hundred dollars (\$100) on all of the corporation's Kentucky gross profits.~~

~~In determining eligibility for the reductions contained in this paragraph when the alternative minimum calculation is computed on a consolidated return, the gross profits of the affiliated group shall include the total gross profits from all sources of the affiliated group, including eliminating entries for transactions among the group.~~

~~(13) As used in subsections (11) and (12) of this section:~~

- ~~(a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the sales factor under the provisions of KRS 141.120(8)(c);~~
- ~~(b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the sales factor under the provisions of KRS 141.120(8)(c); and~~
- ~~(c) The terms defined in KRS 141.0401(1)(d) to (l) shall have the same meaning as provided in KRS 141.0401.]~~

- ~~(4){(14)}~~ (a) ~~{For taxable years beginning on or after January 1, 2007, }~~An S corporation shall pay income tax on the same items of income and in the same manner as required for federal purposes, except to the extent required by differences between this chapter and the federal income tax law and regulations.
- (b)
 - 1. If the S corporation is required under Section 1363(d) of the Internal Revenue Code to submit installments of tax on the recapture of LIFO benefits, installments to pay the Kentucky tax due shall be paid on or before the due date of the S corporation's return, as extended, if applicable.
 - 2. Notwithstanding KRS 141.170(3), no interest shall be assessed on the installment payment for the period of extension.
- (c) If the S corporation is required under Section 1374 or 1375 of the Internal Revenue Code to pay tax on built-in gains or on passive investment income, the amount of tax imposed by this subsection shall be computed by applying the highest rate of tax for the taxable year.

➔SECTION 59. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The provisions of this section are the same as appeared in KRS 141.120 prior to its repeal and reenactment in Section 60 of this Act. This section applies to all corporations for taxable years beginning prior to January 1, 2018, and to a provider, as defined in Section 78 of this Act, for taxable years beginning on or after January 1, 2018.

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

- (a) *"Business income" means income arising from transactions and activity in the regular course of a trade or business of the corporation and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the corporation's regular trade or business operations;*
 - (b) *"Commercial domicile" means the principal place from which the trade or business of the corporation is managed;*
 - (c) *"Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;*
 - (d) *"Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;*
 - (e) *"Nonbusiness income" means all income other than business income;*
 - (f) *"Public service company" means any business entity subject to taxation under KRS 136.120;*
 - (g) *"Sales" means all gross receipts of the corporation not allocated under subsections (3) to (7) of this section, except as provided by KRS 141.121; and*
 - (h) *"State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.*
- (2) *Any corporation which is required by Section 52 of this Act to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.*
- (3) *Rents and royalties from real property, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (4) to (7) of this section.*
- (4) (a) *Net rents and royalties from real property located in this state are allocable to this state.*
- (b) *Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.*
- (c) *The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the corporation, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.*
- (d) *Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.*
- (5) (a) *Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.*
- (b) *Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.*
- (c) *Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the corporation's commercial domicile is in this state.*
- (6) *Interest is allocable to this state if the corporation's commercial domicile is in this state.*
- (7) (a) *Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is*

utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

- (b) *A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.*
- (c) *A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.*
- (8) (a) *Except as provided in subsection (9) of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).*
 - (b) 1. *The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.1-300 shall be excluded from the property factor.*
 - 2. *Property owned is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero (0) the property shall be valued by the department pursuant to administrative regulations promulgated by the department. Property rented is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals, provided that the rental and subrentals are reasonable. If the department determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero (0) rate is charged, the department may determine and apply the rental rate as will reasonably reflect the value of the property rented by the corporation.*
 - 3. *The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the department may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the property.*
 - (c) *The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the corporation for compensation, and the denominator of which is the total compensation paid or payable by the corporation everywhere during the tax period. Compensation is paid or payable in this state if:*
 - 1. *The individual's service is performed entirely within the state;*
 - 2. *The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or*
 - 3. *Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.*
 - (d) 1. *The sales factor is a fraction, the numerator of which is the total sales of the corporation in this state during the tax period, and the denominator of which is the total sales of the corporation everywhere during the tax period.*
 - 2. *Sales of tangible personal property are in this state if:*

- a. *The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or*
 - b. *The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.*
 - 3. *Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.*
- (9) (a) *If the allocation and apportionment provisions of this section do not fairly represent the extent of the corporation's business activity in this state, the corporation may petition for or the department may require, in respect to all or any part of the corporation's business activity, if reasonable:*
- 1. *Separate accounting;*
 - 2. *The exclusion of any one (1) or more of the factors;*
 - 3. *The inclusion of one (1) or more additional factors which will fairly represent the corporation's business activity in this state; or*
 - 4. *The employment of any other method to effectuate an equitable allocation and apportionment of income.*
- (b) *A corporation may elect the allocation and apportionment methods for the corporation's business income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.*
- 1. *All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:*
 - a. *Total business income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period;*
 - b. *For purposes of subdivision a. of this subparagraph, Kentucky receipts shall be determined by multiplying total receipts for the tax period from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year; and*
 - c. *Nonbusiness income shall be allocated to this state as provided in subsections (4) to (7) of this section.*
 - 2. *All business income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as described in KRS 154.655(2) before that statute was renumbered in 1992, shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:*
 - a. *The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year;*

- b. *The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year; and*
 - c. *Nonbusiness income shall be allocated to this state as provided in subsections (4) to (7) of this section.*
- (10) *Public service companies and financial organizations required by Section 52 of this Act to allocate and apportion net income shall allocate and apportion such income as follows:*
 - (a) *Nonbusiness income shall be allocated to this state as provided in subsections (4) to (7) of this section;*
 - (b) *Business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2). The payroll factor shall be determined as provided in subsection (8)(c) of this section. The property factor and sales factor shall be determined as provided by administrative regulations promulgated by the department.*
 - (c) *An affiliated group electing to file a consolidated return under KRS 141.200(4) or required to file a consolidated return under KRS 141.200(11) that includes a public service company, a provider of communications services or multichannel video programming services as defined in KRS 136.602, or a financial organization shall determine the amount of payroll to be included in the apportionment factor as provided in subsection (8)(c) of this section. The amount of property and sales of the public service company, provider of communications services or multichannel video programming services as defined in KRS 136.602, or financial organization to be included in the apportionment factors of the affiliated group shall be determined in accordance with administrative regulations promulgated by the department under paragraph (b) of this subsection.*
- (11) *For taxable years beginning on or after January 1, 2007, a corporation that:*
 - (a) *Owns an interest in a limited liability pass-through entity; or*
 - (b) *Owns an interest in a general partnership organized or formed as a general partnership after January 1, 2006;*

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

➔SECTION 60. KRS 141.120 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

This section applies to taxable years beginning on or after January 1, 2018.

- (1) *As used in this section:*
 - (a) *"Apportionable income" means:*
 - 1. *All income that is apportionable under the Constitution of the United States and is not allocated under this section, including:*
 - a. *Income arising from transactions and activity in the regular course of the taxpayer's trade or business; and*
 - b. *Income arising from tangible and intangible property if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer's trade or business; and*
 - 2. *Any income that would be allocable to this state under the Constitution of the United States, but that is apportioned rather than allocated pursuant to this section;*
 - (b) *"Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed;*

- (c) *"Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, cooperative bank, small loan company, sales finance company, investment company, or any similar type of entity;*
- (d) *"Non-apportionable income" means all income other than apportionable income;*
- (e) *"Receipts" means all gross receipts of the taxpayer that are not allocated under this section, and that are received from transactions and activity in the regular course of the taxpayer's trade or business, except that receipts of a taxpayer from:*
 - 1. *Hedging transactions; and*
 - 2. *The maturity, redemption, sale, exchange, loan, or other disposition of cash or securities; shall be excluded; and*
- (f) *"This state" means the Commonwealth of Kentucky.*
- (2) *Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a provider as defined in KRS 136.602, a financial organization, or a public service company, shall allocate and apportion net income as provided in this section.*
- (3) *For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if:*
 - (a) *In that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or*
 - (b) *That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not do so.*
- (4) *Rents and royalties from real or tangible personal property, capital gains, interest, or patent or copyright royalties, to the extent that they constitute nonapportionable income, shall be allocated as provided in subsections (5) to (8) of this section.*
- (5) *(a) Net rents and royalties from real property located in this state are allocable to this state.*
 - (b) *Net rents and royalties from tangible personal property are allocable to this state:*
 - 1. *If and to the extent that the property is utilized in this state; or*
 - 2. *In their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.*
 - (c) *The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction the numerator of which is the number of days of physical location of the property in this state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during all rental or royalty periods is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.*
- (6) *(a) Capital gains and losses from sales of real property located in this state are allocable to this state.*
 - (b) *Capital gains and losses from sales of tangible personal property are allocable to this state if:*
 - 1. *The property had a situs in this state at the time of the sale; or*
 - 2. *The taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.*
 - (c) *Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.*
- (7) *Interest is allocable to this state if the taxpayer's commercial domicile is in this state.*
- (8) *(a) Patent and copyright royalties are allocable to this state:*
 - 1. *If and to the extent that the patent or copyright is utilized by the payer in this state; or*

2. *If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.*
- (b) *A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.*
- (9) *All apportionable income shall be apportioned to this state by multiplying the income by a fraction the numerator of which is the total receipts of the taxpayer in this state during the taxable year and the denominator of which is the total receipts of the taxpayer everywhere during the taxable year.*
- (10) *Receipts from the sale of tangible personal property are in this state if:*
 - (a) *The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or*
 - (b) *The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.*
- (11) (a) *Receipts, other than receipts described in subsection (10) of this section, are in this state if the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:*
 1. *In the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;*
 2. *In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;*
 3. *In the case of sale of a service, if and to the extent the service is delivered to a location in this state; and*
 4. *In the case of intangible property:*
 - a. *That is rented, leased, or licensed, if and to the extent the property is used in this state, provided that intangible property utilized in marketing a good or service to a consumer is used in this state if that good or service is purchased by a consumer who is in this state; and*
 - b. *That is sold, if and to the extent the property is used in this state, provided that:*
 - i. *A contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is used in this state if the geographic area includes all or part of this state;*
 - ii. *Receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of the intangible property under subdivision a. of this subparagraph; and*
 - iii. *All other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.*
- (b) *If the state or states of assignment under paragraph (a) of this subsection cannot be determined, the state or states of assignment shall be reasonably approximated.*
- (c) *If the taxpayer is not taxable in a state to which a receipt is assigned under paragraph (a) or (b) of this subsection, or if the state of assignment cannot be determined under paragraph (a) of this subsection or reasonably approximated under paragraph (b) of this subsection, the receipt shall be excluded from the denominator of the receipts factor.*
- (d) *The department may promulgate administrative regulations necessary to carry out the purposes of this section.*
- (12) (a) *If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:*

1. *Separate accounting;*
 2. *The inclusion of one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state; or*
 3. *The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.*
- (b) 1. *If the allocation and apportionment provisions of this section do not fairly represent the extent of business activity in this state of taxpayers engaged in a particular industry or in a particular transaction or activity, the department may, in addition to the authority provided in paragraph (a) of this subsection, promulgate administrative regulations for determining alternative allocation and apportionment methods for those taxpayers.*
2. *An administrative regulation promulgated pursuant to this paragraph shall be applied uniformly, except that with respect to any taxpayer to whom the administrative regulation applies, the taxpayer may petition for or the department may require adjustment according to paragraph (a) of this subsection.*
- (c) 1. *The party petitioning for or the department requiring the use of any method to effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to paragraph (a) of the subsection shall prove by clear and convincing evidence:*
- a. *That the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state; and*
 - b. *That the alternative to the provisions is reasonable.*
2. *The same burden of proof shall apply whether the taxpayer is petitioning for, or the department is requiring, the use of any reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income. Notwithstanding the previous sentence, if the department can show that in any two (2) of the prior five (5) taxable years, the taxpayer had used an allocation or apportionment method at variance with its allocation or apportionment method or methods used for the other taxable years, then the department shall not bear the burden of proof in imposing a different method provided by paragraph (a) of this subsection.*
- (d) *If the department requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the department cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of this subsection.*
- (e) *A taxpayer that has received written permission from the department to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the department reasonably relied.*

➔Section 61. KRS 148.542 is amended to read as follows:

As used in KRS 148.542 to 148.546:

- (1) "Above-the-line production crew" means employees involved with the production of a motion picture or entertainment production whose salaries are negotiated prior to commencement of production, such as actors, directors, producers, and writers;
- (2) "Animated production" means a nationally distributed feature-length film created with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork or model positions in order to create an illusion of movement;
- (3) "Approved company" means an eligible company approved for incentives provided under KRS 141.383 and 148.544;
- (4) "Below-the-line production crew" means employees involved with the production of a motion picture or entertainment production except above-the-line production crew. "Below-the-line production crew" includes but is not limited to:

- (a) Casting assistants;
 - (b) Costume design;
 - (c) Extras;
 - (d) Gaffers;
 - (e) Grips;
 - (f) Location managers;
 - (g) Production assistants;
 - (h) Set construction staff; and
 - (i) Set design staff;
- (5) "Cabinet" means the Finance and Administration Cabinet;
- ~~(6) "Commercial" means an individual production or series of live action or animated productions, music videos, infomercials, or interstitials that are:~~
- ~~(a) Less than thirty one (31) minutes in length;~~
 - ~~(b) Made for the purpose of promoting a product, service, or idea; and~~
 - ~~(c) Produced for regional or national distribution via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices;~~
- ~~(7) "Commonwealth" means the Commonwealth of Kentucky;~~
- ~~(7)(8) "Compensation" means compensation included in adjusted gross income as defined in KRS 141.010(10);~~
- ~~(8)(9) "Documentary" means a production based upon factual information and not subjective interjections;~~
- ~~(9)(10) "Eligible company" means any person that intends to film or produce a motion picture or entertainment production in the Commonwealth;~~
- ~~(10)(11) "Employee" has the same meaning as {means the same as defined} in KRS 141.010(20);~~
- ~~(11)(12) "Enhanced incentive county" has the same meaning as in KRS 154.32-010;~~
- ~~(12)(13) "Feature-length film" means a live-action or animated production that is:~~
- ~~(a) More than thirty (30) minutes in length; and~~
 - ~~(b) Produced for distribution in theaters or via digital format, including but not limited to DVD, Internet, or mobile electronic devices;~~
- ~~(13)(14) "Industrial film" means a business-to-business film that may be viewed by the public, including but not limited to videos used for training or for viewing at a trade show;~~
- ~~(14)(15) "Kentucky-based company" has the same meaning as in KRS 164.6011;~~
- ~~(15)(16) (a) "Motion picture or entertainment production" means:~~
- ~~1. The following if filmed in whole or in part, or produced in whole or in part, in the Commonwealth:~~
 - ~~a. A feature-length film;~~
 - ~~b. A television program;~~
 - ~~c. An industrial film; *or*~~
 - ~~d. A documentary; ~~for~~~~
 - ~~e. A commercial;}~~ or
 - ~~2. A national touring production of a Broadway show produced in Kentucky;~~
- (b) "Motion picture or entertainment production" does not include the filming or production of obscene material or television coverage of news or athletic events;

- (16)~~(17)~~ "Obscene" *has the same meaning as* ~~[means the same as defined]~~ in KRS 531.010;
- (17)~~(18)~~ "Office" means the Kentucky Film Office in the Tourism, Arts and Heritage Cabinet;
- (18)~~(19)~~ "Person" *has the same meaning as* ~~[means the same as defined]~~ in KRS 141.010~~(15)~~;
- (19)~~(20)~~ (a) "Qualifying expenditure" means expenditures made in the Commonwealth for the following if directly used in or for a motion picture or entertainment production:
1. The production script and synopsis;
 2. Set construction and operations, wardrobe, accessories, and related services;
 3. Lease or rental of real property in Kentucky as a set location;
 4. Photography, sound synchronization, lighting, and related services;
 5. Editing and related services;
 6. Rental of facilities and equipment;
 7. Vehicle leases;
 8. Food; and
 9. Accommodations.
- (b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by the approved company on the qualifying expenditure;
- (20)~~(21)~~ "Qualifying payroll expenditure" means compensation paid to above-the-line crew and below-the line crew while working on a motion picture or entertainment production in the Commonwealth if the compensation is for services performed in the Commonwealth;
- (21)~~(22)~~ "Resident" has the same meaning as in KRS 141.010;
- (22)~~(23)~~ "Secretary" means the secretary of the Tourism, Arts and Heritage Cabinet;
- (23)~~(24)~~ "Tax incentive agreement" means the agreement entered into pursuant to KRS 148.546 between the office and the approved company; and
- (24)~~(25)~~ "Television program" means any live-action or animated production or documentary, including but not limited to:
- (a) An episodic series;
 - (b) A miniseries;
 - (c) A television movie; or
 - (d) A television pilot;

that is produced for distribution on television via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices.

➔Section 62. KRS 148.544 is amended to read as follows:

- (1) The purposes of KRS 141.383 and 148.542 to 148.546 are to:
 - (a) Encourage the film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;
 - (b) Encourage the development of a film and entertainment industry in Kentucky;
 - (c) Encourage increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and
 - (d) Encourage the development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.
- (2) The Kentucky Film Office is hereby established in the Tourism, Arts and Heritage Cabinet to administer, together with the Finance and Administration Cabinet and the Tourism Development Finance Authority, the tax incentive established by KRS 141.383 and 148.542 to 148.546.

(3) To qualify for the tax incentive provided in subsection (5)~~[(4)]~~ of this section, the following requirements shall be met:

(a) For an approved company that is also a Kentucky-based company that:

1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred twenty-five thousand dollars (\$125,000);
- 2.~~[-] Films or produces a commercial in whole or in part in the Commonwealth that is distributed regionally or nationally, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred thousand dollars (\$100,000);~~
- 3.~~[-] Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000); or~~
- 3.~~[-] 4.~~ Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars (\$10,000); and

(b) For an approved company that is not a Kentucky-based company that:

1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be two hundred fifty thousand dollars (\$250,000); *or*
- 2.~~[-] Films or produces a commercial in whole or in part in the Commonwealth that is distributed regionally or nationally, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred thousand dollars (\$100,000); or~~
- 3.~~[-] Films or produces a documentary in whole or in part in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000).~~

(4) (a) ***Beginning on the effective date of this Act, the total tax incentive approved under KRS 141.383 and 148.542 to 148.546 shall be limited to one hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year thereafter.***

(b) ***On the effective date of this Act, if applications have been approved during the 2018 calendar year which exceed the amount in paragraph (a) of this subsection, the office shall immediately cease in approving any further applications for tax incentives for that calendar year.***

(5) (a) The incentive available under KRS 141.383 and 148.542 to 148.546 is:

1. A refundable credit *for applications approved prior to the effective date of this Act; and*
2. ***A nonrefundable and nontransferable credit for applications approved on or after the effective date of this Act;***

against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, as provided in KRS 141.383.

- (b) 1. For a motion picture or entertainment production filmed or produced in its entirety in an enhanced incentive county, the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:
- a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and
 - c. Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.
2. a. To the extent the approved company films or produces a motion picture or entertainment production in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the

incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (c) of this subsection.

- b. The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.
- (c) For a motion picture or entertainment production filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county, the amount of the incentive shall be equal to:
 1. Thirty percent (30%) of the approved company's:
 - a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to below-the-line production crew that are not residents; and
 - c. Qualifying payroll expenditures paid to above-the-line production crew that are not residents, not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee; and
 2. Thirty-five percent (35%) of the approved company's:
 - a. Qualifying payroll expenditures paid to resident below-the-line production crew; and
 - b. Qualifying payroll expenditures paid to resident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.
- (d) ***Prior to June 1, 2019, the office and the Department of Revenue shall work jointly to provide the following information for each approved motion picture or entertainment production project to the Interim Joint Committee on Appropriations and Revenue by taxable year for all years that a credit under KRS 141.383 is or has been claimed:***
 1. ***The name of the approved company and whether it is Kentucky-based or not;***
 2. ***A brief description of the motion picture or entertainment production project;***
 3. ***The amount of qualifying expenditures and the amount of qualifying payroll expenditures included in the agreement;***
 4. ***The amount of qualifying expenditures and the amount of qualifying payroll expenditures paid to below-the-line production crew and paid to above-the-line production crew in an enhanced incentive county;***
 5. ***The amount of qualifying expenditures and the amount of qualifying payroll expenditures paid to below-the-line production crew and paid to above-the line production crew in a county other than an enhanced incentive county; and***
 6. ***The total amount of the tax credit claimed on a return by tax type, any amount denied, any amount applied against a tax liability, any amount refunded, and any amount remaining that may be claimed on a return filed in the future***~~[The Tourism Development Finance Authority may accept applications, authorize the execution of tax incentive agreements, and enter into tax incentive agreements beginning on June 26, 2009; however, no credit amount shall be claimed by the taxpayer as a refund or paid by the Department of Revenue prior to July 1, 2010].~~

➔Section 63. KRS 6.505 is amended to read as follows:

- (1) (a) Each legislator in office on July 1, 1980, may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the Legislators' Retirement Plan, in an amount equal to five percent (5%) of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he makes the election may, after the expiration of the

thirty (30) day period and until May 1, 1982, make the election, in which event he shall pay to the Legislators' Retirement Plan, for the months between July 1, 1980, and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan.

- (b)
 1. For a member who begins participating in the Legislators' Retirement Plan prior to January 1, 2014, the election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530.
 2.
 - a. For members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 6.500 to 6.577 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.
 - b. For purposes of this subparagraph, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.
 - c. The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 6.500 to 6.577, for members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, except the benefits specified by subparagraph 2.b. of this paragraph.
 3. The provisions of this paragraph shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Legislators' Retirement Plan as provided by KRS 6.500 to 6.577 that the General Assembly had the authority to amend, reduce, or suspend, prior to July 1, 2013.
- (c) An election once made under this section either to participate or not to participate in the Legislators' Retirement Plan, shall be considered to apply to all future service as a legislator, whether in the same or a different office as a legislator, and whether or not it is in successive terms.
- (d) Notwithstanding the provisions of this subsection:
 1. A legislator who becomes a member of the Legislators' Retirement Plan on or after September 1, 2008, but prior to January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his monthly creditable compensation, as defined in KRS 61.510(13).
 2. A legislator who becomes a member of the Legislators' Retirement Plan on or after January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), of which:
 - a. Five percent (5%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used to provide funding for benefits provided under KRS 21.402; and
 - b. One percent (1%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used exclusively to help fund retiree health benefits as provided by KRS 6.577 and shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The amounts deducted under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 6.530.
- (2) A legislator entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office may elect membership not later than August 31, 2005. An election, upon being

made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 6.500 to 6.577.

- (3) When any legislator makes a delayed election of membership in the Legislators' Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service. However, any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Legislators' Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.
- (4) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(40)~~. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) When any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.
- (6) A member of the Legislators' Retirement Plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees Retirement System, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552. Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Legislators' Retirement Plan.

➔Section 64. KRS 16.545 is amended to read as follows:

- (1) Except for members over age fifty-five (55) on July 1, 1958, who shall not be required to contribute, each member shall, commencing on July 1, 1998, contribute for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation.
- (2) The employer shall cause to be deducted from the compensation of each member for each and every payroll period subsequent to July 1, 1958, the contributions payable by such member as provided in KRS 16.510 to 16.652.
- (3) Every member shall be deemed to consent to deductions made as provided herein; and the payment of salary or compensation less such deduction shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 16.510 to 16.652.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~[(40)]~~. These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 16.510 to 16.652 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

➔Section 65. KRS 21.360 is amended to read as follows:

- (1) (a) Each Judge of the District Court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to:
 1. Five percent (5%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan prior to September 1, 2008;
 2. Six percent (6%) of his or her monthly official salary, if the judge or justice became a member of the Kentucky Judicial Retirement Plan on or after September 1, 2008, but prior to January 1, 2014; or
 3. Six percent (6%) of his or her monthly official salary, if the judge or justice who becomes a member of the Kentucky Judicial Retirement Plan on or after January 1, 2014, which shall be used to fund benefits as follows:
 - a. Five percent (5%) of the monthly official salary shall be used to provide funding for benefits provided under KRS 21.402; and
 - b. One percent (1%) of the monthly official salary to be used exclusively to help fund retiree health benefits as provided by KRS 21.427 and which shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by KRS 21.460. The deducted amounts under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 21.347.
- (b) The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, the amount required by paragraph (a) of this subsection, as a voluntary contribution by the member towards the funding of the retirement system. For a member who began contributing to the Judicial Retirement Plan prior to January 1, 2014, the contribution shall continue until the judge or justice is vested in a service retirement allowance equal to one hundred percent (100%) of final compensation. Thereafter employee contributions shall be discontinued but continued service and retirement benefits shall not be affected thereby.

- (2) A judge or justice entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office in 1980 or who elected membership in the Kentucky Employees Retirement System may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member entitled to elect membership under this subsection and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510.
- (3) (a) When any judge makes a delayed election of membership in the Judicial Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Judicial Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a judge, which he then has or which he subsequently regains while being an active member of the Judicial Retirement Plan, shall be transferred to and counted as service credit in the Judicial Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system, if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service.
- (b) Any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a judge, shall not be affected. Notwithstanding any provisions of KRS 61.680 to the contrary, final compensation used to determine benefits for any service credit remaining in the Kentucky Employees Retirement System shall be based on the highest years of compensation as a judge whether the years occur before or after the judge elects membership in the Judicial Retirement Plan.
- (c) No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Judicial Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially-assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.
- (4) Membership and benefit rights for judges and justices (other than Judges of the District Court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.
- (5) When any Judge of the District Court in office on July 1, 1978, elects membership in the Judicial Retirement System in accordance with this section, his membership in the Kentucky Employees Retirement System shall terminate as of July 1, 1978, and any credit in that system he earned for service as a Judge of the District Court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.
- (6) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~141.010~~. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (7) An election once made under this section, either to participate or not to participate in the Judicial Retirement Plan, shall be considered to apply, to all future service in any office covered by the plan, whether such service is in the same or a different office, and whether or not it is continuous.

➔Section 66. KRS 45A.067 is amended to read as follows:

- (1) As used in this section:
 - (a) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another person or group of persons; and
 - (b) "Person" includes any individual, firm, copartnership, pass-through entity as defined in KRS 141.010~~(26)~~, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit.
- (2) The Commonwealth shall not contract to acquire goods or services, and a person shall not contract to supply goods or services to the Commonwealth, unless, prior to or contemporaneous with entering into the contract, the person contracting to supply goods or services and its affiliates register with the Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139.
- (3) Nothing in this section shall require a person or affiliate to register if the person or affiliate does not make sales to customers in the Commonwealth.
- (4) The provisions of subsection (2) of this section are specifically applicable to foreign persons, notwithstanding the fact that the foreign person or the affiliate may not otherwise be legally obligated to collect and remit the sales and use tax.
- (5) The secretary of the Finance and Administration Cabinet shall promulgate an administrative regulation to establish the procedure ensuring compliance with the provisions of this section.

➔Section 67. KRS 61.523 is amended to read as follows:

The following shall apply if an employer ceases participation in the Kentucky Employees Retirement System or the County Employees Retirement System under KRS 61.522 and, after ceasing participation, establishes an alternative retirement plan as required by KRS 61.522, which is a governmental plan within the meaning of 26 U.S.C. sec. 414(d) that provides for mandatory employee contributions:

- (1) Each employee of the employer participating in the governmental plan shall contribute a fixed percentage of compensation for each pay period he or she receives compensation. The fixed percentage of compensation provided by this subsection shall:
 - (a) Be established in a written plan document by the board of directors or other governing body of the employer for specific classes of employees;
 - (b) Comply with subsections (2) to (4) of this section; and
 - (c) Only be changed by the board of directors or other governing body of the employer prospectively, provided the written plan document established by paragraph (a) of this subsection is amended to reflect the change;
- (2) The employer shall cause to be deducted from the compensation of each employee the contribution rate specified by subsection (1) of this section;
- (3) The deductions provided by this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided by this section, and payment of salary or compensation less these deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by such payment, except as to benefits payable under the plans established by the employer that are covered by this section;
- (4) Each employer shall, solely for the purpose of compliance with 26 U.S.C. sec. 414(h), pick up the employee contributions required by this section and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(40)~~, except for purposes of the Federal Insurance Contributions Act. The picked-up employee contribution shall:
 - (a) Be in lieu of employee contributions;
 - (b) Not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee; and
 - (c) Be paid by the employer from the same source of funds which is used to pay compensation to the employee.

The employee shall not be permitted to opt-out of the picked-up employee contributions, to receive the picked-up employee contributions directly instead of having them paid by the employer to the retirement plan, or to have any other cash or deferred election right to the picked-up contributions within the meaning of 26 C.F.R. sec. 1.401(k)-1(a)(3); and

- (5) The provisions of this section shall not be construed to be a determination or opinion by the Kentucky General Assembly as to whether or not an employer who ceases participation in the Kentucky Employees Retirement System or the County Employees Retirement System under KRS 61.522 is a governmental agency for purposes of establishing a governmental plan within the meaning of 26 U.S.C. sec. 414(d).

➔Section 68. KRS 61.560 is amended to read as follows:

- (1) Each employee shall, commencing on August 1, 1986, contribute for each pay period for which he receives compensation five percent (5%) of his creditable compensation, except that members of the General Assembly, who elect the survivorship option provided in KRS 61.635(13), shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.515 to 61.705 notwithstanding, any reemployed retiree, as described in KRS 61.637, who became reemployed prior to September 1, 2008, and began participating in another retirement account shall contribute five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable.
- (2) Each employer shall cause to be deducted from the creditable compensation of each employee for each and every payroll period the contribution payable by each such employee as provided in KRS 61.515 to 61.705.
- (3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.515 to 61.705.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(40)~~. These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by KRS 61.522.

➔Section 69. KRS 65.155 is amended to read as follows:

- (1) Each local government or local government agency which has a pension plan which is qualified under Section 401(a) of the Internal Revenue Code shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions made to the respective retirement system pursuant to KRS 79.080, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769, 95.867, or 96.180 for all compensation earned after August 1, 1982, or after qualification pursuant to Section 401(a) of the Internal Revenue Code, whichever is later, and all contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(40)~~. However, each local government or local government agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, or later date, as the case may be, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution.

The local governments or local government agencies shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the local government or local government agency to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 79.080, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769, 95.867, or 96.180 in the same manner and to the same extent as employee contributions made prior to August 1, 1982, or later date of pick up, as the case may be.

- (2) The pick up of employee contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employee retirement benefit may be based in any of the retirement systems covered by this section.

➔Section 70. KRS 67A.320 is amended to read as follows:

- (1) Any urban-county government in which there existed a municipality which had in effect an employees' pension fund prior to its merger into the urban-county form of government shall provide by comprehensive plan or ordinance for the maintenance of the pension fund for those employees covered by the pension fund, and shall in each case provide for the payment to the pension fund in each month of the sum necessary to maintain the fund in accordance with the actuarial principles established by the actuarial studies described in this section, and may assess monthly the amount or percent of the salary of the employees as determined on a fair actuarial basis, and in any case not in excess of nine percent (9%) of the monthly salary of each employee unless a higher rate was charged prior to the merger of governments, in which case the higher rate may be charged, the assessment to be deducted from the employees' salaries or picked up pursuant to subsection (2) of this section and paid in cash into the pension fund. Within six (6) months after the effective date of the urban-county form of government, or within six (6) months after June 21, 1974, whichever shall be later, the trustees of the board shall, at the expense of the pension fund, provide for the performance of an actuarial valuation, which shall be completed within six (6) months thereafter, and shall describe the amounts necessary to be contributed by the urban-county government or other sources to fund on an actuarially sound basis the benefits promised or described in the fund, including any payments required to bring the fund to an actuarially sound position if it was not so at the time of the performance of the valuation. The legislative body shall determine a reasonable period over which additional funding, if any, shall be made, which period shall not exceed thirty (30) years. A similar valuation shall be arranged by the board at the cost of the urban-county government at least once in every three (3) year to five (5) year period thereafter as prescribed by KRS 65.156. If the fund created by this section is extended to cover employees not described in the first sentence of this section, the actuarial valuation shall determine the required payments necessary to keep the expanded fund on an actuarially sound basis, and the urban-county government shall maintain the fund, and shall assess against the additional covered employees the same monthly contribution as required for other government employees.
- (2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(10)~~. However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of this section in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (3) The pick up of employee contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employee retirement benefit is based.
- (4) There is hereby created a board for the existing employees' pension fund and trustees of that board. Trustees from the pension fund board shall consist of the mayor, four (4) members of the legislative body of the urban-county government selected by the legislative body, the secretary of the Finance and Administration Cabinet, the director of the Division of Personnel, and three (3) civil service employees or retirees to be elected to the

board by those employees and retirees covered by the employees' pension fund. In the event that there is no position in the urban-county government denominated secretary of the Finance and Administration Cabinet and/or director of the Division of Personnel, the appointed office of the urban-county government exercising the functions most closely resembling such office shall serve as trustee.

- (5) Temporary employees appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.
- (6) In no year shall the contribution by the urban-county government to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employees.
- (7) The trustees of the pension fund shall, at least once every three (3) months, report in writing to the mayor the receipts, expenditures, and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where urban-county employees frequent and report.
- (8) If the urban-county government issues the appropriate order allowing participation in the County Employees Retirement System alternate participation plan pursuant to KRS 78.530(3) and 78.531(2), the urban-county government shall have the right to use assets in the local pension fund, other than assets necessary to pay benefits to the remaining active members of the local pension fund and to retirees and their survivors as determined by actuarial valuation and other than assets payable to the County Employees Retirement System pursuant to KRS 78.531(2), to assist in the payment of both the employee's and employer's costs of alternate participation pursuant to KRS 78.530(3)(d).
- (9) If all liabilities to all individuals entitled to benefits from the employees' pension fund have been satisfied, any ordinances established for creation or maintenance of the fund may be repealed by the majority vote of the duly elected members of the entire legislative body of the urban-county government. If repealed, the fund's board of trustees shall, within sixty (60) days of repeal, proceed with the liquidation of any residual assets of the fund. All residual assets liquidated pursuant to this subsection shall be distributed by the board of trustees to the urban-county government's general fund which shall then contribute the entire distribution received into the policemen's and firefighters' retirement fund as a supplemental contribution, so long as the return of assets complies with federal and state law governing the distribution of assets. The supplemental contribution provided to the policemen's and firefighters' retirement fund under this subsection shall be in addition to the contributions required by KRS 67A.360 to 67A.690 and shall not be used to offset any other contributions required to be paid to the fund under the provisions of KRS 67A.360 to 67A.690. Within thirty (30) days following the distribution of residual assets, the board of trustees of the fund shall as its last act file a complete report with the legislative body of the urban-county government of the actions taken to terminate the fund and liquidate residual assets of the fund. Upon completion of the provisions specified by this subsection, the provisions of KRS 67A.320 to 67A.330 as it relates to the employees' pension fund shall be void.

➔Section 71. KRS 67A.510 is amended to read as follows:

- (1) (a) Each active member shall contribute a sum equal to not less than ten and one-half percent (10.5%) nor more than eleven percent (11%) of current salary, to be determined by the legislative body of the urban-county government, except that:
 1. For members whose participation date in the fund is prior to March 14, 2013, the members shall, effective July 1, 2013, contribute a sum equal to twelve percent (12%) of current salary to the fund; and
 2. For members whose participation date in the fund is on or after March 14, 2013, the member shall contribute a sum equal to twelve percent (12%) of current salary to the fund.
- (b) The commissioner of finance of the government is hereby authorized to deduct such amount provided by this subsection from the salary paid to each active member during any pay period. This contribution shall be made as a deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate. Every member of the fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such member of salary less such deduction shall constitute a full and complete discharge and acquittance of all claims and demand whatsoever for the services rendered by such member during the period covered by such payment, except as to the benefits herein provided. After August 1, 1982, employee contributions shall be picked up by the urban-county government pursuant to subsection (2) of this section.

- (2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(10)~~. However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 67A.360 to 67A.690 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

➔Section 72. KRS 78.610 is amended to read as follows:

- (1) Each employee shall, commencing on August 1, 1990, contribute, for each pay period for which he receives compensation, five percent (5%) of his creditable compensation.
- (2) The agency reporting official of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system the contribution payable by the member as provided in KRS 78.510 to 78.852. The agency reporting official shall promptly pay the deducted employee contributions to the system in accordance with KRS 78.625.
- (3) The deductions provided for in subsection (2) of this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided in subsection (2) of this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(10)~~. These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by KRS 61.522.

➔Section 73. KRS 136.310 is amended to read as follows:

- (1) Every federally or state chartered savings and loan association, savings bank, and other similar institution authorized to transact business in this state, with property and payroll within and without this state, shall, during January of each year, file with the Department of Revenue a report containing information and in such form as the department may require.
- (2) The Department of Revenue shall fix the fair cash value, as of January 1 of each year, of the capital attributable to Kentucky in each financial institution included in subsection (1) of this section. The methodology employed by the department shall be a three (3) step process as follows:

- (a)
 - 1. The total value of deposits maintained in Kentucky less any amounts where the amount borrowed by a member equals or exceeds the amount deposited by that member shall be determined.
 - 2. The total value of deposits maintained in Kentucky shall be determined by the same method used for filing the summary of deposits report with the Federal Deposit Insurance Corporation;
- (b)
 - 1. The Kentucky apportioned value of capital shall be determined by including undivided profits, surplus, general reserves, and paid-up stock.
 - 2. For Agricultural Credit Associations chartered by the Farm Credit Administration, capital shall be computed by deducting the book value of the association's investment in any other wholly owned institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or this section or that is exempt from state taxation by federal law.
 - 3. The Kentucky value of capital shall be determined by a fraction, the numerator of which is the receipts factor plus the outstanding loan balance factor plus the payroll factor, and the denominator of which is three (3); and
- (c)
 - 1. The values determined in steps (a) and (b) of this subsection shall be added together to determine total Kentucky capital and then reduced by the influence of ownership in tax-exempt United States obligations to determine Kentucky taxable capital.
 - 2. The influence of tax-exempt United States obligations is to be determined from the reports of condition filed with the applicable supervisory agency as follows: the average amount of tax-exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by total Kentucky capital.
 - 3. The department shall immediately notify each institution of the value so fixed.
- (3) The receipts factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is all receipts derived from loans and other sources negotiated through offices or derived from customers in Kentucky, and the denominator of which is total business receipts for the preceding calendar year.
- (4)
 - (a) The outstanding loan balance factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is the average balance of outstanding loans negotiated from offices or made to customers in Kentucky, and the denominator of which is the average balance of all outstanding loans.
 - (b)
 - 1. The average outstanding loan balance is determined by adding the outstanding loan balance at the beginning of the preceding calendar year to the outstanding loan balance at the end of the preceding calendar year and dividing by two (2).
 - 2. If the yearly beginning balance and ending balance results in an inequitable factor, the average outstanding loan balance may be computed on a monthly average balance.
- (5) The payroll factor specified in subsection (2)(b) of this section shall be determined for the preceding calendar year under the provisions of **Section 59 of this Act**~~[KRS 141.120(8)(b)]~~ and administrative regulations promulgated according to KRS Chapter 13A.
- (6)
 - (a) By July 1 succeeding the filing of the report as provided in subsection (1) of this section, each financial institution included in subsection (1) of this section shall pay directly into the State Treasury a tax of one dollar (\$1) for each one thousand dollars (\$1,000) paid in on its Kentucky taxable capital as fixed in subsection (2)(c) of this section.
 - (b) The institution shall not be required to pay local taxes upon its capital stock, surplus, undivided profits, notes, mortgages, or other credits, and the tax provided by this section shall be in lieu of all taxes for state purposes on intangible property of the institution, nor shall any depositor of the institution be required to list his deposits for taxation under KRS 132.020.
 - (c) Failure to make reports and pay taxes as provided in this section shall subject the institution to the same penalties imposed for such failure on the part of the other corporations.
- (7) If a financial institution included in subsection (1) of this section selects, it may deduct taxes imposed in subsection (6) of this section from the dividends paid or credited to a nonborrowing shareholder.
- (8)
 - (a) Every Agricultural Credit Association chartered by the Farm Credit Administration being authorized to transact business in Kentucky but having no employees located within or without the state shall be

subject to the same tax imposed pursuant to either KRS 136.300 or this section as that imposed upon its wholly owned Production Credit Association subsidiary.

- (b) For purposes of computing Kentucky apportioned value of capital pursuant to subsection (2) of this section, those Agricultural Credit Associations subject to the tax imposed by this section shall utilize that Kentucky apportionment fraction computed and utilized by its wholly owned Production Credit Association subsidiary for the same report period.

➔Section 74. KRS 136.530 is amended to read as follows:

- (1) The receipts factor is a fraction, the numerator of which is the receipts of the financial institution in this Commonwealth during the taxable year as determined by subsection (2) of this section and the denominator of which is the receipts of the financial institution within and without this Commonwealth during the taxable year. Receipts shall include the following:
 - (a) Receipts from the lease or rental of real property owned by the financial institution;
 - (b) Receipts from the lease or rental of tangible personal property owned by the financial institution;
 - (c) Interest and fees or penalties in the nature of interest from loans secured by real property;
 - (d) Interest and fees or penalties in the nature of interest from loans not secured by real property;
 - (e) Net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code;
 - (f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees;
 - (g) Net gains, but not less than zero (0), from the sale of credit card receivables;
 - (h) All credit card issuer's reimbursement fees;
 - (i) Receipts from merchant discount. Receipts from merchant discount shall be computed net of any cardholder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders;
 - (j) Loan servicing fees derived from loans secured by real property;
 - (k) Loan servicing fees derived from loans not secured by real property;
 - (l) Interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities. Investment assets and activities and trading assets and activities include but are not limited to investment securities, trading account assets, federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions. The receipts factor shall include the following amounts:
 - 1. The amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements; and
 - 2. The amount by which interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from these assets and activities;
 - (m) All receipts derived from sales that would be included in the factor established by *Section 59 of this Act* ~~KRS 141.120(8)(c)~~; and
 - (n) Receipts from services not otherwise specifically listed.
- (2) A determination of whether receipts should be included in the numerator of the fraction shall be made as follows:
 - (a) Receipts from the lease or rental of real property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth or receipts from the sublease of real property if the property is located within this Commonwealth.

- (b)
 - 1. Except as described in subparagraph 2. of this paragraph, receipts from the lease or rental of tangible personal property owned by the financial institution shall be included in the numerator if the property is located within this Commonwealth when it is first placed in service by the lessee.
 - 2. Receipts from the lease or rental of transportation property owned by the financial institution are included in the numerator of the receipts factor to the extent that the property is used in this Commonwealth. The extent an aircraft will be deemed to be used in this Commonwealth and the amount of receipts that is to be included in the numerator of this Commonwealth's receipts factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this Commonwealth cannot be determined, then the property shall be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle shall be deemed to be used wholly in the state in which it is registered.
- (c)
 - 1. Interest and fees or penalties in the nature of interest from loans secured by real property shall be included in the numerator if the property is located within this Commonwealth. If the property is located both within this Commonwealth and one (1) or more other states, receipts shall be included if more than fifty percent (50%) of the fair market value of the real property is located within this Commonwealth. If more than fifty percent (50%) of the fair market value of the real property is not located within any one (1) state, then the receipts described in this subparagraph shall be included in the numerator if the borrower is located in this Commonwealth.
 - 2. The determination of whether the real property securing a loan is located within this Commonwealth shall be made as of the time the original agreement was made, and any subsequent substitutions of collateral shall be disregarded.
- (d) Interest and fees or penalties in the nature of interest from loans not secured by real property shall be included in the numerator if the borrower is located in this Commonwealth.
- (e) Net gains from the sale of loans shall be included in the numerator as provided in subparagraphs 1. and 2. of this paragraph. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.
 - 1. The amount of net gains, but not less than zero (0), from the sale of loans secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.
 - 2. The amount of net gains, but not less than zero (0), from the sale of loans not secured by real property included in the numerator is determined by multiplying net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.
- (f) Interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, shall be included in the numerator if the billing address of the card holder is in this Commonwealth.
- (g) Net gains, but not less than zero (0), from the sale of credit card receivables to be included in the numerator shall be determined by multiplying the amount established in paragraph (g) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.
- (h) Credit card issuer's reimbursement fees to be included in the numerator shall be determined by multiplying the amount established in paragraph (h) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (f) of this subsection and the denominator of which is the financial institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

- (i) Receipts from merchant discount shall be included in the numerator if the commercial domicile of the merchant is in this Commonwealth. Receipts from merchant discount shall be computed net of any cardholder charge backs but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.
- (j)
 - 1.
 - a. Loan servicing fees derived from loans secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (j) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (c) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.
 - b. Loan servicing fees derived from loans not secured by real property to be included in the numerator shall be determined by multiplying the amount determined under paragraph (k) of subsection (1) of this section by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to paragraph (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.
 - 2. In circumstances in which the financial institution receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include the fees if the borrower is located in this Commonwealth.
- (k) Receipts from services not otherwise apportioned under this section shall be included in the numerator if the service is performed in this Commonwealth. If the service is performed both within and without this Commonwealth, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income-producing activity is performed in this Commonwealth based on cost of performance.
- (l)
 - 1. The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities and from trading assets and activities described in paragraph (l) of subsection (1) of this section that are attributable to this Commonwealth.
 - a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from the assets and activities by a fraction the numerator of which is the average value of the assets that are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all the assets.
 - b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (l) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all funds and securities.
 - c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (l) of subsection (1) of this section by a fraction the numerator of which is the average value of trading assets which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the average value of all assets.

- d. For purposes of this subparagraph, average value shall be determined using the rules for determining the average value of tangible personal property set forth in KRS 136.535(3) and (4).
- 2. In lieu of using the method set forth in subparagraph 1. of this paragraph, the financial institution may elect, or the department may require in order to fairly represent the business activity of the financial institution in this Commonwealth, the use of the method set forth in this subparagraph.
 - a. The amount of interest, dividends, net gains, but not less than zero (0), and other income from investment assets and activities in the investment account to be attributed to this Commonwealth and included in the numerator is determined by multiplying all income from assets and activities by a fraction the numerator of which is the gross income from assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.
 - b. The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 1. of paragraph (1) of subsection (1) of this section from funds and securities by a fraction the numerator of which is the gross income from funds and securities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all funds and securities.
 - c. The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, but excluding amounts described in subdivisions a. and b. of this subparagraph, attributable to this Commonwealth and included in the numerator is determined by multiplying the amount described in subparagraph 2. of paragraph (1) of subsection (1) of this section by a fraction the numerator of which is the gross income from trading assets and activities which are properly assigned to a regular place of business of the financial institution within this Commonwealth and the denominator of which is the gross income from all assets and activities.
- 3. If the financial institution elects or is required by the department to use the method set forth in subparagraph 2. of this paragraph, it shall use this method on all subsequent returns unless the financial institution receives prior permission from the department to use, or the department requires, a different method.
- 4. The financial institution shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside this Commonwealth by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this Commonwealth. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one (1) regular place of business and one (1) regular place of business is in this Commonwealth and one (1) regular place of business is outside this Commonwealth, the asset or activity shall be considered to be located at the regular place of business of the financial institution where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the financial institution demonstrates to the contrary, the policies and guidelines shall be presumed to be established at the commercial domicile of the financial institution.
- (m) The numerator of the receipts factor includes all other receipts derived from sales as determined *in Section 59 of this Act* ~~[pursuant to the provisions set forth in KRS 141.120(8)(c)]~~.
- (n)
 - 1. All receipts that would be assigned under this section to a state in which the financial institution is not taxable shall be included in the numerator of the receipts factor, if the financial institution's commercial domicile is in this Commonwealth.
 - 2. For purposes of subparagraph 1. of this paragraph, "taxable" means either:
 - a. That a financial institution is subject in another state to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a corporate

stock tax including a bank shares tax, a single business tax, an earned surplus tax, or any tax which is imposed upon or measured by net income; or

- b. That another state has statutory authority to subject the financial institution to any of the taxes in subdivision a. of this subparagraph, whether in fact the state does or does not impose the tax.

➔Section 75. KRS 139.531 is amended to read as follows:

- (1) Notwithstanding any other provisions of this chapter to the contrary, the taxes imposed by this chapter shall apply to:
 - (a) Fees paid for breeding a stallion to a mare in this state;
 - (b) Sales of horses unless exempted under the provisions of subsections (2)(a) or (2)(d) of this section; and
 - (c) The sales price of any horse claimed at any race meeting within this state.
- (2) In addition to any other exemptions provided for the horse industry in this chapter, the taxes imposed under the provisions of this chapter shall not apply to the following activities:
 - (a) The sale or use of horses, or interests or shares in horses, provided the purchase or use is made for breeding purposes only;
 - (b) The use of a stallion for breeding purposes by an owner or shareholder of the stallion;
 - (c) The trading of stallion services by an owner or shareholder of the stallion;
 - (d) The sale of horses less than two (2) years of age at the time of sale, provided the sale is made to a nonresident of Kentucky. For the purposes of this section, a nonresident means a person as defined in KRS 141.010~~[(45)]~~ who is not a resident in this state as defined by KRS 141.010~~[(47)]~~ or who is not commercially domiciled in this state as defined in *Section 59 of this Act*~~[KRS 141.120(1)(b)]~~;
 - (e) The boarding and training of horses within this state; and
 - (f) The temporary use of horses within this state for purposes of racing, exhibiting, or performing.

➔Section 76. KRS 141.050 is amended to read as follows:

- (1) Except to the extent required by differences between this chapter and its application and the federal income tax law and its application, the administrative and judicial interpretations of the federal income tax law, computations of gross income and deductions therefrom, accounting methods, and accounting procedures, for purposes of this chapter shall be as nearly as practicable identical with those required for federal income tax purposes. Changes to federal income tax law made after the Internal Revenue Code reference date contained in KRS 141.010~~[(3)]~~ shall not apply for purposes of this chapter unless adopted by the General Assembly.
- (2) Every person subject to the provisions of this chapter shall keep records, render under oath statements, make returns, and comply with the rules and administrative regulations as the department from time to time may promulgate. Whenever the department judges it necessary, it may require a person, by notice served upon him or her, to make a return, render under oath statements, or keep records, as the department deems sufficient to show whether or not the person is liable for tax, and the extent of the liability.
- (3) The commissioner or his or her authorized agent or representative, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any taxpayers, may require the attendance of the taxpayer or of any other person having knowledge in the premises.
- (4) The department shall promulgate rules and regulations necessary to effectively carry out the provisions of this chapter.

➔Section 77. KRS 141.0401 is amended to read as follows:

- (1) As used in this section:
 - (a) "Kentucky gross receipts" means an amount equal to the computation of the numerator of the *apportionment fraction*~~[sales factor]~~ under *Section 60 of this Act*~~[the provisions of KRS 141.120(8)(c), KRS 141.120(9)]~~, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of Kentucky gross receipts of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;

- (b) "Gross receipts from all sources" means an amount equal to the computation of the denominator of the ***apportionment fraction***~~[sales factor]~~ under ***Section 60 of this Act***~~[the provisions of KRS 141.120(8)(c), KRS 141.120(9)]~~, any administrative regulations related to the computation of the sales factor, and KRS 141.121 and includes the proportionate share of gross receipts from all sources of all wholly or partially owned limited liability pass-through entities, including all layers of a multi-layered pass-through structure;
- (c) "Combined group" means all members of an affiliated group as defined in KRS 141.200(9)(b) and all limited liability pass-through entities that would be included in an affiliated group if organized as a corporation;
- (d) "Cost of goods sold" means:
1. Amounts that are:
 - a. Allowable as cost of goods sold pursuant to the Internal Revenue Code and any guidelines issued by the Internal Revenue Service relating to cost of goods sold, unless modified by this paragraph; and
 - b. Incurred in acquiring or producing the tangible product generating the Kentucky gross receipts.
 2. For manufacturing, producing, reselling, retailing, or wholesaling activities, cost of goods sold shall only include costs directly incurred in acquiring or producing the tangible product. In determining cost of goods sold:
 - a. Labor costs shall be limited to direct labor costs as defined in paragraph (f) of this subsection;
 - b. Bulk delivery costs as defined in paragraph (g) of this subsection may be included; and
 - c. Costs allowable under Section 263A of the Internal Revenue Code may be included only to the extent the costs are incurred in acquiring or producing the tangible product generating the Kentucky gross receipts. Notwithstanding the foregoing, indirect labor costs allowable under Section 263A shall not be included;
 3. For any activity other than manufacturing, producing, reselling, retailing, or wholesaling, no costs shall be included in cost of goods sold.

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

- (e) 1. "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts. If the amount of returns and allowances attributable to Kentucky gross receipts and the cost of goods sold attributable to Kentucky gross receipts is zero, then "Kentucky gross profits" means Kentucky gross receipts; and
2. "Gross profits from all sources" means gross receipts from all sources reduced by returns and allowances attributable to gross receipts from all sources, less the cost of goods sold attributable to gross receipts from all sources. If the amount of returns and allowances attributable to gross receipts from all sources and the cost of goods sold attributable to gross receipts from all sources is zero, then gross profits from all sources means gross receipts from all sources;
- (f) "Direct labor" means labor that is incorporated into the tangible product sold or is an integral part of the manufacturing process;
- (g) "Bulk delivery costs" means the cost of delivering the product to the consumer if:
1. The tangible product is delivered in bulk and requires specialized equipment that generally precludes commercial shipping; and
 2. The tangible product is taxable under KRS 138.220;
- (h) "Manufacturing" and "producing" means:

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

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

- (c) A credit shall be allowed against the tax imposed under paragraph (a) of this subsection for the current year to a corporation or limited liability pass-through entity that owns an interest in a limited liability pass-through entity. The credit shall be the proportionate share of tax calculated under this subsection by the lower-level pass-through entity, as determined after the amount of tax calculated by the pass-through entity has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit shall apply across multiple layers of a multi-layered pass-through entity structure. The credit at each layer shall include the credit from each lower layer, after reduction for the minimum tax of one hundred seventy-five dollars (\$175) at each layer.
 - (d) The department may promulgate administrative regulations to establish a method for calculating the cost of goods sold attributable to Kentucky.
- (3) A nonrefundable credit based on the tax calculated under subsection (2) of this section shall be allowed against the tax imposed by KRS 141.020 or 141.040. The credit amount shall be determined as follows:
 - (a) The credit allowed a corporation subject to the tax imposed by KRS 141.040 shall be equal to the amount of tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, reduced by the minimum tax of one hundred seventy-five dollars (\$175), plus any credit determined in paragraph (b) of this subsection for tax paid by wholly or partially owned limited liability pass-through entities. The amount of credit allowed to a corporation based on the amount of tax paid under subsection (2) of this section for the current year shall be applied to the income tax due from the corporation's activities in this state. Any remaining credit from the corporation shall be disallowed.
 - (b) The credit allowed members, shareholders, or partners of a limited liability pass-through entity shall be the members', shareholders', or partners' proportionate share of the tax calculated under subsection (2) of this section for the current year after subtraction of any credits identified in KRS 141.0205, as determined after the amount of tax paid has been reduced by the minimum tax of one hundred seventy-five dollars (\$175). The credit allowed to members, shareholders, or partners of a limited liability pass-through entity shall be applied to income tax assessed on income from the limited liability pass-through entity. Any remaining credit from the limited liability pass-through entity shall be disallowed.
- (4) Each taxpayer subject to the tax imposed in this section shall file a return, on forms prepared by the department, on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. Any tax remaining due after making the payments required in KRS 141.042 shall be paid by the original due date of the return.
- (5) The department shall prescribe forms and promulgate administrative regulations as needed to administer the provisions of this section.
- (6) The tax imposed by subsection (2) of this section shall not apply to:
 - (a) Financial institutions, as defined in KRS 136.500, except banker's banks organized under KRS 287.135 or 286.3-135;
 - (b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
 - (c) Banks for cooperatives;
 - (d) Production credit associations;
 - (e) Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
 - (f) Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
 - (g) Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit;
 - (h) Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing, provided that:

1. The property consists of the final printed product, or copy from which the printed product is produced; and
 2. The corporation has no individuals receiving compensation in this state as provided in **Section 59 of this Act** ~~[KRS 141.120(8)(b)]~~;
- (i) Public service corporations subject to tax under KRS 136.120;
 - (j) Open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940;
 - (k) Any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
 - (l) An alcohol production facility as defined in KRS 247.910;
 - (m) Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;
 - (n) Regulated investment companies as defined in Section 851 of the Internal Revenue Code;
 - (o) Real estate mortgage investment conduits as defined in Section 860D of the Internal Revenue Code;
 - (p) Personal service corporations as defined in Section 269A(b)(1) of the Internal Revenue Code;
 - (q) Cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmers' agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives; or
 - (r) Publicly traded partnerships as defined by Section 7704(b) of the Internal Revenue Code that are treated as partnerships for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or their publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership.
- (7) (a) As used in this subsection, "qualified exempt organization" means an entity listed in subsection (6)(a) to (r) of this section and shall not include any entity whose exempt status has been disallowed by the Internal Revenue Service.
 - (b) Notwithstanding any other provisions of this section, any limited liability pass-through entity that is owned in whole or in part by a qualified exempt organization shall, in calculating its Kentucky gross receipts or Kentucky gross profits, exclude the proportionate share of its Kentucky gross receipts or Kentucky gross profits attributable to the ownership interest of the qualified exempt organization.
 - (c) Any limited liability pass-through entity that reduces Kentucky gross receipts or Kentucky gross profits in accordance with paragraph (b) of this subsection shall disregard the ownership interest of the qualified exempt organization in determining the amount of credit available under subsection (3) of this section.
 - (d) The Department of Revenue may promulgate an administrative regulation to further define "qualified exempt organization" to include an entity for which exemption is constitutionally or legally required, or to exclude any entity created primarily for tax avoidance purposes with no legitimate business purpose.
- (8) The credit permitted by subsection (3) of this section shall flow through multiple layers of limited liability pass-through entities and shall be claimed by the taxpayer who ultimately pays the tax on the income of the limited liability pass-through entity.

➔Section 78. KRS 141.121 is amended to read as follows:

- (1) As used in this section:
 - (a) "Affiliated airline" means an airline:
 1. For which a qualified air freight forwarder facilitates air transportation; and
 2. That is in the same affiliated group as a qualified air freight forwarder;
 - (b) "Affiliated group" has the same meaning as in KRS 141.200;

- (c) "Kentucky revenue passenger miles" means the total revenue passenger miles within the borders of Kentucky for all flight stages that either originate or terminate in this state;
- ~~(d) "Liquid asset" means an asset, other than functional currency or funds held in bank accounts, held to provide a relatively immediate source of funds to satisfy the liquidity needs of the trade or business. "Liquid assets" include:~~
 - ~~1. Foreign currency and trading positions therein, other than functional currency used in the regular course of the corporation's trade or business;~~
 - ~~2. Marketable instruments, including stocks, bonds, debentures, options, warrants, and futures contracts; and~~
 - ~~3. Mutual funds which hold liquid assets;~~
- ~~(e) "Marketable instrument" means an instrument that is traded in an established stock or securities market and is regularly quoted by brokers or dealers in making a market;~~
- ~~(f) "Overall net gain" means the total net gain from all transactions incurred at each treasury function for the entire taxable period. "Overall net gain" does not mean the net gain from a specific transaction if multiple transactions occur during the taxable period;~~
- ~~(g) "Passenger airline" means a person or corporation engaged primarily in the carriage by aircraft of passengers in interstate commerce;~~
- (e) *"Provider" means any corporation engaged in the business of providing:*
 - 1. *Communications service as defined in KRS 136.602;*
 - 2. *Cable service as defined in KRS 136.602; or*
 - 3. *Internet access as defined in 47 U.S.C. sec. 151;*
- ~~(f)(h) "Qualified air freight forwarder" means a person that:~~
 - 1. Is engaged primarily in the facilitation of the transportation of property by air;
 - 2. Does not itself operate aircraft; and
 - 3. Is in the same affiliated group as an affiliated airline; *and*
- ~~(g)(i) "Revenue passenger miles" means miles calculated in accordance with 14 C.F.R. Part 241; and~~
- ~~(j) "Treasury function" means the pooling and management of liquid assets for the purpose of satisfying the cash flow needs of the trade or business and includes the following situations:~~
 - ~~1. Providing liquidity for a corporation's business cycle; and~~
 - ~~2. Providing a reserve for business contingencies or business acquisitions.~~
- ~~(2) If a corporation holds liquid assets in connection with one (1) or more treasury functions of the corporation, and the liquid assets produce business income when sold, exchanged, or otherwise disposed of, the overall net gain from those transactions for each treasury function for the tax period shall be included in the sales factor. For purposes of this subsection:~~
 - ~~(a) Each treasury function shall be considered separately; and~~
 - ~~(b) A corporation principally engaged in the trade or business of purchasing and selling instruments or other items included in the definition of liquid assets is not performing a treasury function with respect to that income produced.~~
- ~~(3)~~ (a) For purposes of apportioning business income to this state *for taxable years beginning prior to January 1, 2018:*
 - 1. ~~(a)~~ Passenger airlines shall determine the property, payroll, and sales factors as follows:
 - a. ~~(1)~~ Except as modified by this *subdivision*~~subparagraph~~, the property factor shall be determined as provided in *Section 59 of this Act*~~KRS 141.120(8)(a)~~. Aircraft operated by a passenger airline shall be included in both the numerator and denominator of the property factor. Aircraft shall be included in the numerator of the property factor by determining the product of:

- ~~i. [a.]~~ The total average value of the aircraft operated by the passenger airline; and
 - ~~ii. [b.]~~ A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year;
 - ~~b. [2.]~~ Except as modified by this ~~subdivision [subparagraph]~~, the payroll factor shall be determined as provided in ~~Section 59 of this Act [KRS 141.120(8)(b)]~~. Compensation paid during the tax period by a passenger airline to flight personnel shall be included in the numerator of the payroll factor by determining the product of:
 - ~~i. [a.]~~ The total amount paid during the taxable year to flight personnel; and
 - ~~ii. [b.]~~ A fraction, the numerator of which is the Kentucky revenue passenger miles of the passenger airline for the taxable year and the denominator of which is the total revenue passenger miles of the passenger airline for the taxable year; and
 - ~~c. [3.]~~ Except as modified by this ~~subdivision [subparagraph]~~, the sales factor shall be determined as provided in ~~Section 59 of this Act [KRS 141.120(8)(c)]~~. Transportation revenues shall be included in the numerator of the sales factor by determining the product of:
 - ~~i. [a.]~~ The total transportation revenues of the passenger airline for the taxable year; and
 - ~~ii. [b.]~~ A fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year; and
- 2. ~~[(b)]~~ Qualified air freight forwarders shall determine the property, payroll, and sales factors as follows:
 - ~~a. [1.]~~ The property factor shall be determined as provided in ~~Section 59 of this Act [KRS 141.120(8)(a)]~~;
 - ~~b. [2.]~~ The payroll factor shall be determined as provided in ~~Section 59 of this Act [KRS 141.120(8)(b)]~~; and
 - ~~c. [3.]~~ Except as modified by this subparagraph, the sales factor shall be determined as provided in ~~Section 59 of this Act [KRS 141.120(8)(c)]~~. Freight forwarding revenues shall be included in the numerator of the sales factor by determining the product of:
 - ~~i. [a.]~~ The total freight forwarding revenues of the qualified air freight forwarder for the taxable year; and
 - ~~ii. [b.]~~ A fraction, the numerator of which is miles operated in Kentucky by the affiliated airline and the denominator of which is the total miles operated by the affiliated airline.
- (b) *For purposes of apportioning income to this state for taxable years beginning on or after January 1, 2018, except as modified by this paragraph, the apportionment fraction shall be determined as provided in Section 60 of this Act, except that:*
 - 1. *Transportation revenues shall be determined to be in this state by multiplying the total transportation revenues by a fraction, the numerator of which is the Kentucky revenue passenger miles for the taxable year and the denominator of which is the total revenue passenger miles for the taxable year; and*
 - 2. *Freight forwarding revenues shall be determined to be in this state by multiplying the total freight forwarding revenues by a fraction, the numerator of which is miles operated in Kentucky by the affiliated airline and the denominator of which is the total miles operated by the affiliated airline.*
- (3) *For purposes of apportioning income to this state for taxable years beginning on or after January 1, 2018, the apportionment fraction for a provider shall continue to be calculated using a three (3) factor formula as provided in Section 59 of this Act.*
- (4) (a) *A corporation may elect the allocation and apportionment methods for the corporation's apportionable income provided for in paragraphs (b) and (c) of this subsection. The election, if made, shall be irrevocable for a period of five (5) years.*

- (b) *All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:*
1. *Total apportionable income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period;*
 2. *For purposes of subparagraph 1. of this paragraph, Kentucky receipts shall be determined by multiplying total receipts for the taxable year from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year; and*
 3. *Nonapportionable income shall be allocated to this state as provided in Section 60 of this Act.*
- (c) *All apportionable income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as described in KRS 154.655(2) before that statute was renumbered in 1992, shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:*
1. *The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year;*
 2. *The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year; and*
 3. *Nonapportionable income shall be allocated to this state as provided in Section 60 of this Act.*
- (5) *Public service companies and financial organizations required by Section 53 of this Act to allocate and apportion net income shall allocate and apportion that income as follows:*
- (a) *Nonapportionable income shall be allocated to this state as provided in Section 60 of this Act;*
 - (b) *Apportionable income shall be apportioned to this state as provided by Section 60 of this Act. Receipts shall be determined as provided by administrative regulations promulgated by the department; and*
 - (c) *An affiliated group required to file a consolidated return under Section 79 of this Act that includes a public service company, a provider of communications services or multichannel video programming services as defined in KRS 136.602, or a financial organization shall determine the amount of receipts as provided by administrative regulations promulgated by the department.*
- (6) *A corporation:*
- (a) *That owns an interest in a limited liability pass-through entity; or*
 - (b) *That owns an interest in a general partnership;*
- shall include the proportionate share of receipts of the limited liability pass-through entity or general partnership when apportioning income. The phrases "an interest in a limited liability pass-through entity" and "an interest in a general partnership" shall extend to each level of multiple-tiered pass-through entities.*

➔Section 79. KRS 141.200 is amended to read as follows:

- (1) Subsections (2) to (7) of this section shall apply for taxable periods ending before January 1, 2005, and election periods beginning prior to January 1, 2005.
- (2) As used in subsections (2) to (7) of this section, unless the context requires otherwise:
 - (a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;
 - (b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;
 - (c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter;
 - (d) "Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
 - (e) "Election period" means the ninety-six (96) month period provided for in subsection (4)(d) of this section.
- (3) Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year, a member of an affiliated group electing to file a consolidated return in accordance with subsection (4) of this section.
- (4)
 - (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.
 - (b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income ~~in accordance with KRS 141.010(13),~~ and in determining the property, payroll, and sales factors in accordance with **Section 59 of this Act** ~~[KRS 141.120]~~. The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under the provisions of KRS 141.040. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.
 - (c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the department and shall be submitted to the department on or before the due date of the return including extensions for the first taxable year for which the election is made.
 - (d) Notwithstanding subsections (9) to (15) of this section, any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the ninety-sixth consecutive calendar month expires.
 - (e) For each taxable year for which an affiliated group has made an election in accordance with paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.
- (5) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.
- (6) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The Department of Revenue may require a further or supplemental report of further information and data necessary for computation of the tax.

- (7) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the department shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible such assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.
- (8) Subsections (9) to (14) of this section shall apply for taxable years beginning on or after January 1, 2005, **but prior to January 1, 2019**~~[unless otherwise provided]~~.
- (9) As used in subsections (9) to (14) of this section:
- (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, "affiliated group" means one (1) or more chains of includible corporations connected through stock ownership, membership interest, or partnership interest with a common parent corporation which is an includible corporation if:
 - a. The common parent owns directly an ownership interest meeting the requirements of subparagraph 2. of this paragraph in at least one (1) other includible corporation; and
 - b. An ownership interest meeting the requirements of subparagraph 2. of this paragraph in each of the includible corporations, excluding the common parent, is owned directly by one (1) or more of the other corporations.
 - 2. The ownership interest of any corporation meets the requirements of this paragraph if the ownership interest encompasses at least eighty percent (80%) of the voting power of all classes of ownership interests and has a value equal to at least eighty percent (80%) of the total value of all ownership interests;
 - (b) 1. For taxable years beginning after December 31, 2006, **but prior to January 1, 2019**, "affiliated group" means one (1) or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if:
 - a. The common parent owns directly stock meeting the requirements of subparagraph 2. of this paragraph in at least one (1) other includible corporation; and
 - b. Stock meeting the requirements of subparagraph 2. of this paragraph in each of the includible corporations, excluding the common parent, is owned directly by one (1) or more of the other corporations.
 - 2. The stock of any corporation meets the requirements of this paragraph if the stock encompasses at least eighty percent (80%) of the voting power of all classes of stock and has a value equal to at least eighty percent (80%) of the total value of all stock;
 - (c) "Common parent corporation" means the member of an affiliated group that meets the ownership requirement of paragraph (a)1. or (b)1. of this subsection;
 - (d) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and is related to a member of an affiliated group through stock ownership;
 - (e) "Includible corporation" means any corporation that is doing business in this state except:
 - 1. Corporations exempt from corporation income tax under KRS 141.040~~[(1)(a) to (i)]~~;
 - 2. Foreign corporations;
 - 3. Corporations with respect to which an election under Section 936 of the Internal Revenue Code is in effect for the taxable year;
 - 4. Real estate investment trusts as defined in Section 856 of the Internal Revenue Code;
 - 5. Regulated investment companies as defined in Section 851 of the Internal Revenue Code;
 - 6. A domestic international sales company as defined in Section 992(a)(1) of the Internal Revenue Code;

7. Any corporation that realizes a net operating loss whose ***apportionment fraction under Section 60 of this Act*** is ~~the sum of the property, payroll, and sales factors pursuant to KRS 141.120(8) are~~ de minimis;
 8. Any corporation for which the ***apportionment fraction under Section 60 of this Act*** ~~is the sum of the property, payroll and sales factors described in KRS 141.120(8)~~ is zero; and
 9. For taxable years beginning prior to January 1, 2006, and taxable years beginning on or after January 1, 2007, an S corporation as defined in Section 1361(a) of the Internal Revenue Code;
- (f) "Ownership interest" means stock, a membership interest in a limited liability company, or a partnership interest in a limited partnership or limited liability partnership;
 - (g) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code;
 - (h) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter; and
 - (i) "Stock" means stock in a corporation, or a membership interest in a limited liability company that has elected to be treated as a corporation for federal tax purposes.
- (10) Every corporation doing business in this state except those exempt from taxation under KRS 141.040(1)(a) to (4) shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year:
 - (a) An includible corporation in an affiliated group;
 - (b) A common parent corporation doing business in this state;
 - (c) A qualified subchapter S Subsidiary that is included in the return filed by the Subchapter S parent corporation;
 - (d) A qualified real estate investment trust subsidiary that is included in the return filed by the real estate investment trust parent; or
 - (e) A disregarded entity that is included in the return filed by its parent entity.
 - (11)
 - (a) An affiliated group, whether or not filing a federal consolidated return, shall file a consolidated return which includes all includible corporations.
 - (b) An affiliated group required to file a consolidated return under this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income ~~in accordance with KRS 141.010(13), and~~ in determining the property, payroll, and sales factors in accordance with ***Section 59 of this Act or the apportionment fraction in accordance with Section 60 of this Act*** ~~KRS 141.120~~.
 - (c) ***For taxable years beginning on or after January 1, 2005, and before January 1, 2019,*** includible corporations that have incurred a net operating loss shall not deduct an amount that exceeds, in the aggregate, fifty percent (50%) of the income realized by the remaining includible corporations that did not realize a net operating loss. The portion of any net operating loss limited by the application of this subsection shall be available for carryforward in accordance with KRS 141.011. The department ~~of Revenue~~ shall promulgate administrative regulations to establish the manner and extent to which net operating losses attributable to tax periods ending prior to January 1, 2005, may offset income of affiliated groups.
 - (d) The gross receipts received by a public service company that is a member of an affiliated group shall be excluded from the calculation of the alternative minimum calculation under KRS 141.040. For purposes of this paragraph, "public service company" has the same meaning as provided in KRS 136.120.
 - (12) Each includible corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any includible

corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.

- (13) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers or management of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, chief accounting officer, manager, member, or partner. The department ~~of Revenue~~ may require a further or supplemental report of further information and data necessary for computation of the tax.
- (14) In the case of a corporation doing business in this state that carries on transactions with stockholders, members or partners, or with other corporations related by ownership, by interlocking directorates, or by some other method, the department shall require that information necessary to make possible an accurate assessment of the income derived by the corporation from sources within this state be provided. To make possible this assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.
- ~~(15) For any taxable year ending on or after December 31, 1995, except as provided under this section and KRS 141.205, nothing in this chapter shall be construed as allowing or requiring the filing of:~~
 - ~~(a) A combined return under the unitary business concept; or~~
 - ~~(b) A consolidated return.~~
- ~~(16) No assessment of additional tax due for any taxable year ending on or before December 31, 1995, made after December 22, 1994, and based on requiring a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.~~
- ~~(17) No claim for refund or credit of a tax overpayment for any taxable year ending on or before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.~~
- ~~(18) No corporation or group of corporations shall be allowed to file a combined return under the unitary business concept or a consolidated return for any taxable year ending before December 31, 1995, unless on or before December 22, 1994, the corporation or group of corporations filed an initial or amended return under the unitary business concept or consolidated return for a taxable year ending before December 22, 1994.~~
- ~~(19)~~ This section shall not be construed to limit or otherwise impair the department's authority under KRS 141.205.

➔Section 80. KRS 141.205 is amended to read as follows:

 - (1) As used in this section:
 - (a) "Intangible property" means franchises, patents, patent applications, trade names, trademarks, service marks, copyrights, trade secrets, and similar types of intangible assets;
 - (b) "Intangible expenses" includes the following only to the extent that the amounts are allowed as deductions or costs in determining taxable net income before the application of any net operating loss deduction provided under Chapter 1 of the Internal Revenue Code:
 1. Expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;
 2. Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions;
 3. Royalty, patent, technical, and copyright fees;
 4. Licensing fees; and
 5. Other similar expenses and costs;

- (c) "Intangible interest expense" means only those amounts which are directly or indirectly allowed as deductions under Section 163 of the Internal Revenue Code for purposes of determining taxable income under that code, to the extent that the amounts are directly or indirectly for, related to, or connected to the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;
 - (d) "Management fees" includes but is not limited to expenses and costs paid for services pertaining to accounts receivable and payable, employee benefit plans, insurance, legal, payroll, data processing, purchasing, tax, financial and securities, accounting, reporting and compliance services or similar services, only to the extent that the amounts are allowed as a deduction or cost in determining taxable net income before application of the net operating loss deduction for the taxable year provided under Chapter 1 of the Internal Revenue Code;
 - (e) "Affiliated group" has the same meaning as provided in KRS 141.200;
 - (f) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and that would be a related member if it were a domestic corporation;
 - (g) "Related member" means a person that, with respect to the entity during all or any portion of the taxable year, is:
 - 1. A person or entity that has, directly or indirectly, at least fifty percent (50%) of the equity ownership interest in the taxpayer, as determined under Section 318 of the Internal Revenue Code;
 - 2. A component member as defined in Section 1563(b) of the Internal Revenue Code;
 - 3. A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code; or
 - 4. A person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in subparagraphs 1. to 3. of this paragraph;
 - (h) "Recipient" means a related member or foreign corporation to whom the item of income that corresponds to the intangible interest expense, the intangible expense, or the management fees, is paid;
 - (i) "Unrelated party" means a person that has no direct, indirect, beneficial or constructive ownership interest in the recipient; and in which the recipient has no direct, indirect, beneficial or constructive ownership interest;
 - (j) "Disclosure" means that the entity shall provide the following information to the Department of Revenue with its tax return regarding a related party transaction:
 - 1. The name of the recipient;
 - 2. The state or country of domicile of the recipient;
 - 3. The amount paid to the recipient; and
 - 4. A description of the nature of the payment made to the recipient;
 - (k) "Other related party transaction" means a transaction which:
 - 1. Is undertaken by an entity which was not required to file a consolidated return under KRS 141.200;
 - 2. Is undertaken by an entity, directly or indirectly, with one (1) or more of its stockholders, members, partners, or affiliated entities; and
 - 3. Is not within the scope of subsections (2) and (3) of this section;
 - (l) "Related party costs" means intangible expense, intangible interest expense, management fees and any costs or expenses associated with other related party transactions; and
 - (m) "Entity" means any taxpayer other than a natural person.
- (2) An entity subject to the tax imposed by this chapter shall not be allowed to deduct an intangible expense, an intangible interest expense, or a management fee directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one (1) or more direct or indirect transactions with one (1) or more

related members or with a foreign corporation as defined in subsection (1) of this section, or with an entity that would be included in the affiliated group based upon ownership interest if it were organized as a corporation.

- (3) The disallowance of deductions provided by subsection (2) of this section shall not apply if:
 - (a) The entity and the recipient are both included in the same consolidated Kentucky corporation income tax return for the relevant taxable year; or
 - (b) The entity makes a disclosure, and establishes by a preponderance of the evidence that:
 1. The payment made to the recipient was subject to, in its state or country of commercial domicile, a net income tax, or a franchise tax measured by, in whole or in part, net income. If the recipient is a foreign corporation, the foreign nation shall have in force a comprehensive income tax treaty with the United States; and
 2. The recipient is engaged in substantial business activities separate and apart from the acquisition, use, licensing, management, ownership, sale, exchange, or any other disposition of intangible property, or in the financing of related members, as evidenced by the maintenance of permanent office space and full-time employees dedicated to the maintenance and protection of intangible property; and
 3. The transaction giving rise to the intangible interest expense, intangible expense, or management fees between the entity and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's-length transaction; or
 - (c) The entity makes a disclosure, and establishes by preponderance of the evidence that the recipient regularly engages in transactions with one (1) or more unrelated parties on terms identical to that of the subject transaction; or
 - (d) The entity and the Department of Revenue agree in writing to the application or use of an alternative method of apportionment under KRS 141.120~~[(9)]~~.
- (4) An entity subject to the tax imposed by this chapter may deduct expenses or costs associated with an other related party transaction only in an amount equal to the amount which would have resulted if the other related party transaction had been carried out at arm's length. In any dispute between the department and the entity with respect to the amount which would have resulted if the transaction had been carried out at arm's length, the entity shall bear the burden of establishing the amount by a preponderance of the evidence.
- (5) Nothing in this section shall be deemed to prohibit an entity from deducting a related party cost in an amount permitted by this section, provided that the entity has incurred related party costs equal to or greater than the amounts permitted by this section.
- (6) If it is determined by the department that the amount of a deduction claimed by an entity with respect to a related party cost is greater than the amount permitted by this section, the net income of the entity shall be adjusted to reflect the amount of the related party cost permitted by this section.
- (7) For tax periods ending before January 1, 2005, in the case of entities not required to file a consolidated or combined return under subsection (1) of this section that carried on transactions with stockholders or affiliated entities directly or indirectly, the department shall adjust the net income of such entities to an amount that would result if such transactions were carried on at arm's length.

➔Section 81. KRS 141.206 is amended to read as follows:

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

- ~~(a) For taxable years beginning after December 31, 2004, and before January 1, 2007, "pass through entity" means a general partnership not subject to the tax imposed by KRS 141.040, including any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code and its publicly traded partnership affiliates. "Publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership; and~~
- ~~(b) For all other taxable years, "pass through entity" means pass through entity as defined in KRS 141.010.~~

- ~~(2)~~ Every pass-through entity doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal tax return with the form prescribed and furnished by the department.
- ~~(2)~~~~(3)~~ Pass-through entities shall determine net income in the same manner as in the case of an individual under KRS 141.010~~(9) to (11)~~ and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of net income under this section and the computation of the partner's, member's, or shareholder's distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.
- ~~(3)~~~~(4)~~ Individuals, estates, trusts, or corporations doing business in this state as a partner, member, or shareholder in a pass-through entity shall be liable for income tax only in their individual, fiduciary, or corporate capacities, and no income tax shall be assessed against the net income of any pass-through entity, except as required for S corporations by KRS 141.040~~(14)~~.
- ~~(4)~~~~(5)~~ (a) Every pass-through entity required to file a return under subsection ~~(1)~~~~(2)~~ of this section, except publicly traded partnerships as defined in KRS 141.0401(6)(r), shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each:
1. Nonresident individual partner, member, or shareholder; and
 2. Corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity.
- (b) Withholding shall be at the maximum rate provided in KRS 141.020 or 141.040.
- ~~(5)~~~~(6)~~ (a) Effective for taxable years beginning after December 31, 2011, every pass-through entity required to withhold Kentucky income tax as provided by subsection ~~(4)~~~~(5)~~ of this section shall make a declaration and payment of estimated tax for the taxable year if:
1. For a nonresident individual partner, member, or shareholder, the estimated tax liability can reasonably be expected to exceed five hundred dollars (\$500); or
 2. For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the estimated tax liability can reasonably be expected to exceed five thousand dollars (\$5,000).
- (b) The declaration and payment of estimated tax shall contain the information and shall be filed as provided in KRS 141.207.
- ~~(6)~~~~(7)~~ (a) If a pass-through entity demonstrates to the department that a partner, member, or shareholder has filed an appropriate tax return for the prior year with the department, then the pass-through entity shall not be required to withhold on that partner, member, or shareholder for the current year unless the exemption from withholding has been revoked pursuant to paragraph (b) of this subsection.
- (b) An exemption from withholding shall be considered revoked if the partner, member, or shareholder does not file and pay all taxes due in a timely manner. An exemption so revoked shall be reinstated only with permission of the department. If a partner, member, or shareholder who has been exempted from withholding does not file a return or pay the tax due, the department may require the pass-through entity to pay to the department the amount that should have been withheld, up to the amount of the partner's, member's, or shareholder's ownership interest in the entity. The pass-through entity shall be entitled to recover a payment made pursuant to this paragraph from the partner, member, or shareholder on whose behalf the payment was made.
- ~~(7)~~~~(8)~~ In determining the tax under this chapter, a resident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity shall take into account the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, deduction, and credit.
- ~~(8)~~~~(9)~~ In determining the tax under this chapter, a nonresident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity required to file a return under subsection ~~(1)~~~~(2)~~ of this section shall take into account:
- (a) 1. If the pass-through entity is doing business only in this state, the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, and deduction; or

2. If the pass-through entity is doing business both within and without this state, the partner's, member's, or shareholder's distributive share of the pass-through entity's items of income, loss, and deduction multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection ~~(11)~~~~(12)~~ of this section; and
 - (b) The partner's, member's, or shareholder's total distributive share of credits of the pass-through entity.
- ~~(9)~~~~(10)~~ A corporation that is subject to tax under KRS 141.040 and is a partner or member in a pass-through entity shall take into account the corporation's distributive share of the pass-through entity's items of income, loss, and deduction and:
- (a) 1. For taxable years beginning *on or after January 1, 2007, but* prior to January 1, 2018,~~2007, the items of income, loss, and deduction, when applicable, shall be multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection (12) of this section; or~~
 - ~~(b) For taxable years beginning on or after January 1, 2007:~~
 1. ~~A corporation that owns an interest in a limited liability pass-through entity or that owns an interest in a general partnership organized or formed as a general partnership after January 1, 2006,} shall include the proportionate share of the sales, property, and payroll of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and~~
 2. *For taxable years beginning on or after January 1, 2018, shall include the proportionate share of the sales of the limited liability pass-through entity or general partnership in computing its own apportionment factor;*~~A corporation that owns an interest in a general partnership organized or formed on or before January 1, 2006, shall follow the provisions of paragraph (a) of this subsection;} and~~
- ~~(b)~~~~(c)~~ Credits from the partnership.
- ~~(10)~~~~(11)~~ (a) If a pass-through entity is doing business both within and without this state, the pass-through entity shall compute and furnish to each partner, member, or shareholder the numerator and denominator of each factor of the apportionment fraction determined in accordance with subsection ~~(11)~~~~(12)~~ of this section.
- (b) For purposes of determining an apportionment fraction under paragraph (a) of this subsection, if the pass-through entity is:
1. Doing business both within and without this state; and
 2. A partner or member in another pass-through entity;
- then the pass-through entity shall be deemed to own the pro rata share of the property owned or leased by the other pass-through entity, and shall also include its pro rata share of the other pass-through entity's payroll and sales.
- (c) The phrases "a partner or member in another pass-through entity" and "doing business both within and without this state" shall extend to each level of multiple-tiered pass-through entities.
- (d) The attribution to the pass-through entity of the pro rata share of property, payroll and sales from its role as a partner or member in another pass-through entity will also apply when determining the pass-through entity's ultimate apportionment factor for property, payroll and sales as required under subsection ~~(11)~~~~(12)~~ of this section.
- ~~(11)~~~~(12)~~ (a) *For taxable years beginning prior to January 1, 2018,* a pass-through entity doing business within and without the state shall compute an apportionment fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, with each factor determined in the same manner as provided in *Section 59 of this Act*~~KRS 141.120(8)}~~, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).
- (b) *For taxable years beginning on or after January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction as provided in Section 60 of this Act.*

- ~~(12)~~~~(13)~~ Resident individuals, estates, or trusts that are partners in a partnership, members of a limited liability company electing partnership tax treatment for federal income tax purposes, owners of single member limited liability companies, or shareholders in an S corporation which does not do business in this state are subject to tax under KRS 141.020 on federal net income, gain, deduction, or loss passed through the partnership, limited liability company, or S corporation.
- ~~(13)~~~~(14)~~ An S corporation election made in accordance with Section 1362 of the Internal Revenue Code for federal tax purposes is a binding election for Kentucky tax purposes.
- ~~(14)~~~~(15)~~ (a) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection, a "qualified investment partnership" means a pass-through entity that, during the taxable year, holds only investments that produce income that would not be taxable to a nonresident individual if held or owned individually.
- (b) A qualified investment partnership shall be subject to all other provisions relating to a pass-through entity under this section and shall not be subject to the tax imposed under KRS 141.040 or 141.0401.
- ~~(15)~~~~(16)~~ (a) 1. A pass-through entity may file a composite income tax return on behalf of electing nonresident individual partners, members, or shareholders.
2. The pass-through entity shall report and pay on the composite income tax return income tax at the highest marginal rate provided in this chapter on any portion of the partners', members', or shareholders' pro rata or distributive shares of income of the pass-through entity from doing business in this state or deriving income from sources within this state. Payments made pursuant to subsection ~~(5)~~~~(6)~~ of this section shall be credited against any tax due.
3. The pass-through entity filing a composite return shall still make estimated tax payments if required to do so by subsection ~~(5)~~~~(6)~~ of this section, and shall remain subject to any penalty provided by KRS 131.180 or 141.990 for any declaration underpayment or any installment not paid on time.
4. The partners', members', or shareholders' pro rata or distributive share of income shall include all items of income or deduction used to compute adjusted gross income on the Kentucky return that is passed through to the partner, member, or shareholder by the pass-through entity, including but not limited to interest, dividend, capital gains and losses, guaranteed payments, and rents.
- (b) A nonresident individual partner, member, or shareholder whose only source of income within this state is distributive share income from one (1) or more pass-through entities may elect to be included in a composite return filed pursuant to this section.
- (c) A nonresident individual partner, member, or shareholder that has been included in a composite return may file an individual income tax return and shall receive credit for tax paid on the partner's behalf by the pass-through entity.
- (d) A pass-through entity shall deliver to the department a return upon a form prescribed by the department showing the total amounts paid or credited to its electing nonresident individual partners, members, or shareholders, the amount paid in accordance with this subsection, and any other information the department may require. A pass-through entity shall furnish to its nonresident partner, member, or shareholder annually, but not later than the fifteenth day of the fourth month after the end of its taxable year, a record of the amount of tax paid on behalf of the partner, member, or shareholder on a form prescribed by the department.

➔Section 82. KRS 141.207 is amended to read as follows:

- (1) The declaration and payment of estimated tax required by KRS 141.206~~(6)~~ shall contain the following information:
- (a) For a nonresident individual partner, member, or shareholder, the amount of estimated tax calculated under KRS 141.020 for the taxable year; and
- (b) For a corporate partner or member that is doing business in Kentucky only through its ownership interest in a pass-through entity, the amount of estimated tax calculated under KRS 141.040 for the taxable year.
- (2) The declaration of estimated tax required under this section shall be filed with the department by the pass-through entity in the same manner and at the same times as provided by:

- (a) KRS 141.300, for a nonresident individual partner, member, or shareholder; and
 - (b) KRS 141.042, for a corporate partner or member.
- (3) The payment of estimated tax shall be made in installments by the pass-through entity in the same manner and at the same times as provided by:
- (a) KRS 141.305, for a nonresident individual partner, member, or shareholder; and
 - (b) KRS 141.044, for a corporate partner or member.
- (4) A pass-through entity required to make a declaration and payment of estimated tax shall be subject to the penalty provisions of KRS 131.180 and 141.990 for any declaration underpayment or any installment not paid on time.

➔Section 83. KRS 141.325 is amended to read as follows:

- (1) An employee receiving wages shall on any day be entitled to the following withholding exemptions:
- (a) ***For taxable years beginning prior to January 1, 2018:***
 - 1. One (1) exemption for himself;
 - 2. ~~One (1) exemption for each dependent for whom he would be entitled to a tax credit under the provisions of KRS 141.020{(3)(a)3. or (b)1.e.};~~
 - 3. ~~If the employee is married, the exemption to which his spouse is entitled, or would be entitled if such spouse were an employee, under subparagraph 1.{(a)} of this *paragraph*{subsection}, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption; ***and***~~
 - (b) ~~Such other withholding exemptions as the department may prescribe by regulation.~~
- (2) Every employee shall, ~~on or before July 1, 1954, or~~ before the date of commencement of employment, ~~whichever is later,~~ furnish his ***or her*** employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he ***or she*** claims, which in no event shall exceed the number to which he is entitled.
- (3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished; ~~provided, that certificates furnished before July 1, 1954, shall be considered as furnished on that date.~~
- (4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.
- (5) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such time as the department may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.
- (6) If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten (10) days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions

which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

- (7) Withholding exemption certificates shall be in ~~the[such]~~ form and contain ~~the[such]~~ information **required by** ~~as~~ the department ~~may by regulations prescribe~~.

➔Section 84. KRS 141.347 is amended to read as follows:

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

- (a) "Approved company" shall have the same meaning as set forth in KRS 154.22-010;
- (b) "Economic development project" shall have the same meaning as set forth in KRS 154.22-010;
- (c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-070;
- (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
- (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

- (2) An approved company shall determine the tax credit as provided in this section.

- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(1)~~ shall:

- (a) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income ~~as defined by KRS 141.010(11)~~ or taxable net income ~~as defined by KRS 141.010(14)~~, including income from the economic development project;
- 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development project; and
- 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
- (b) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income ~~as defined by KRS 141.010(11)~~ or taxable net income ~~as defined by KRS 141.010(14)~~, excluding net income attributable to the economic development project;
- 2. Using the method chosen under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the economic development project; and
- 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
- (c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.22-050.

- (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to tax under KRS 141.040 or a trust not subject to tax under KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020~~(2)~~.
- (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
- (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.22-050.
- (d) If the tax computed in this section exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 or 141.0401 for filing the returns.

- (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the economic development project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.22-020 to 154.22-070 and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070.

➔Section 85. KRS 141.383 is amended to read as follows:

- (1) As used in this section:
 - (a) "Above-the-line production crew" means the same as defined in KRS 148.542;
 - (b) "Approved company" means the same as defined in KRS 148.542;
 - (c) "Below-the-line production crew" means the same as defined in KRS 148.542;
 - (d) "Cabinet" means the same as defined in KRS 148.542;
 - (e) "Office" means the same as defined in KRS 148.542;
 - (f) "Qualifying expenditure" means the same as defined in KRS 148.542;
 - (g) "Qualifying payroll expenditure" means the same as defined in KRS 148.542;
 - (h) "Secretary" means the same as defined in KRS 148.542; and
 - (i) "Tax incentive agreement" means the same as defined in KRS 148.542.

- (2) (a) There is hereby created a ~~refundable~~ tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.
- (b) *The incentive available under paragraph (a) of this section is:*
1. *A refundable credit for applications approved prior to the effective date of this Act; and*
 2. *A nonrefundable and nontransferable credit for applications approved on or after the effective date of this Act.*
- (c) 1. *Beginning on the effective date of this Act, the total tax incentive approved under Section 62 of this Act shall be limited to one hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year thereafter.*
2. *On the effective date of this Act, if applications have been approved during the 2018 calendar year which exceed the amount in paragraph (a) of this subsection, the Kentucky Film Office shall immediately cease in approving any further applications for tax incentives.*
- (3) An approved company may receive a refundable tax credit on and after July 1, 2010, *but only for applications approved prior to the effective date of this Act*, if:
- (a) The cabinet has received notification from the office that the approved company has satisfied all requirements of KRS 148.542 to 148.546; and
 - (b) The approved company has provided a detailed cost report and sufficient documentation to the office, which has been forwarded by the office to the cabinet, that:
 1. The purchases of qualifying expenditures were made after the execution of the tax incentive agreement; and
 2. The approved company has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures.
- ~~(4) The refundable tax credit shall not apply until the taxable year in which the secretary notifies the approved company of the amount of refundable credit that is available. If the notification of approval is provided prior to July 1, 2010, the company shall not claim the credit and the department shall not issue any refunds until on or after July 1, 2010.~~
- ~~(5)~~ Interest shall not be allowed or paid on any refundable credits provided under this section.
- ~~(5)(6)~~ The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section.
- ~~(6)(7)~~ On or before September 1, 2010, and on or before each September 1 thereafter, for the immediately preceding fiscal year, the cabinet shall report to the office the names of the approved companies and the amounts of refundable income tax credit claimed.
- ➔Section 86. KRS 141.390 is amended to read as follows:
- (1) As used in this section:
- (a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;
 - (b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials;
 - (c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner;
 - (d) "Recapture period" means:
 1. For qualified equipment with a useful life of five (5) or more years, the period from the date the equipment is purchased to five (5) full years from that date; or

2. For qualified equipment with a useful life of less than five (5) years, the period from the date the equipment is purchased to three (3) full years from that date;
 - (e) "Useful life" means the period determined under Section 168 of the Internal Revenue Code;
 - (f) "Baseline tax liability" means the tax liability of the taxpayer for the most recent tax year ending prior to January 1, 2005; and
 - (g) "Major recycling project" means a project where the taxpayer:
 1. Invests more than ten million dollars (\$10,000,000) in recycling or composting equipment to be used exclusively in this state;
 2. Has more than seven hundred fifty (750) full-time employees with an average hourly wage of more than three hundred percent (300%) of the federal minimum wage; and
 3. Has plant and equipment with a total cost of more than five hundred million dollars (\$500,000,000).
- (2) (a) A taxpayer that purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. Any credit allowed against the income taxes imposed pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.
- (b) For taxable years beginning after December 31, 2004, a taxpayer that has a major recycling project containing recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste material shall be entitled to a credit against the income taxes imposed pursuant to this chapter, including any tax due under the provisions of KRS 141.040, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. Any credit allowed against the income taxes imposed pursuant to this chapter shall also be applied against the limited liability entity tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205. The credit described in this paragraph shall be limited to a period of ten (10) years commencing with the approval of the recycling credit application. In each taxable year, the amount of credits claimed for all major recycling projects shall be limited to:
1. Fifty percent (50%) of the excess of the total of each tax liability over the baseline tax liability of the taxpayer; or
 2. Two million five hundred thousand dollars (\$2,500,000), whichever is less.
- (c) A taxpayer with one (1) or more major recycling projects shall be entitled to a total credit including the amount computed in paragraph (a) of this subsection plus the amount of credit computed in paragraph (b) of this subsection.
- (d) A taxpayer shall not be permitted to utilize a credit computed under paragraph (a) of this subsection and a credit computed under paragraph (b) of this subsection on the same recycling or composting equipment.
- (3) Application for a tax credit shall be made to the Department of Revenue on or before the first day of the seventh month following the close of the taxable year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the Department of Revenue may require. The Department of Revenue shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section. ~~Any corporation as defined in KRS 141.010(24)(b)2. to 8. may elect to claim the balance of a recycling credit approved prior to March 18, 2005, against its tax liability imposed under KRS 141.040 and 141.0401. The election shall be binding on the taxpayer and the Department of Revenue until the balance of the recycling credit is used.~~

- (4) Except as provided in subsection (6) of this section, if a taxpayer that receives a tax credit under this section sells, transfers, or otherwise disposes of the qualifying recycling or composting equipment before the end of the recapture period, the tax credit shall be redetermined under subsection (5) of this section. If the total credit taken in prior taxable years exceeds the redetermined credit, the difference shall be added to the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs. If the redetermined credit exceeds the total credit already taken in prior taxable years, the taxpayer shall be entitled to use the difference to reduce the taxpayer's tax liability under this chapter for the taxable year in which the sale, transfer, or disposition occurs.
- (5) The total tax credit allowable under subsection (2) of this section for equipment that is sold, transferred, or otherwise disposed of before the end of the recapture period shall be adjusted as follows:
 - (a) For equipment with a useful life of five (5) or more years that is sold, transferred, or otherwise disposed of:
 1. One (1) year or less after the purchase, no credit shall be allowed.
 2. Between one (1) year and two (2) years after the purchase, twenty percent (20%) of the total allowable credit shall be allowed.
 3. Between two (2) and three (3) years after the purchase, forty percent (40%) of the total allowable credit shall be allowed.
 4. Between three (3) and four (4) years after the purchase, sixty percent (60%) of the total allowable credit shall be allowed.
 5. Between four (4) and five (5) years after the purchase, eighty percent (80%) of the total allowable credit shall be allowed.
 - (b) For equipment with a useful life of less than five (5) years that is sold, transferred, or otherwise disposed of:
 1. One (1) year or less after the purchase, no credit shall be allowed.
 2. Between one (1) year and two (2) years after the purchase, thirty-three percent (33%) of the total allowable credit shall be allowed.
 3. Between two (2) and three (3) years after the purchase, sixty-seven percent (67%) of the total allowable credit shall be allowed.
- (6) Subsections (4) and (5) of this section shall not apply to transfers due to death, or transfers due merely to a change in business ownership or organization as long as the equipment continues to be used exclusively in recycling or composting, or transactions to which Section 381(a) of the Internal Revenue Code applies.
- (7) The Department of Revenue may promulgate administrative regulations to carry out the provisions of this section.

➔Section 87. KRS 141.400 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;
 - (b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010;
 - (c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090;
 - (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(11)~~ shall:
 - (a) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, including income from the economic development project;

2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
- (b)
1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, excluding net income attributable to the economic development project;
 2. Using the same method used under subparagraph 2. of paragraph (a) of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross receipts or Kentucky gross profits from the economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
- (c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.28-090.
- (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to tax under KRS 141.040, or a trust not subject to tax under KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020~~[(2)]~~.
- (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
- (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.28-090.
- (d) If the tax computed in this section exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.0401 or 141.160 for filing the returns.
- (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the economic development project is a totally separate facility:
- (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
- (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this

section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and

- (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.

➔Section 88. KRS 141.401 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" shall have the same meaning as set forth in KRS 154.23-010;
 - (b) "Economic development project" shall have the same meaning as set forth in KRS 154.23-010;
 - (c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-079;
 - (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- (2) An approved company shall determine the tax credit as provided in this section.
- (3) An approved company that is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(1)~~ shall:
 - (a)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, including income from the economic development project;
 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (b)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, excluding net income attributable to the economic development project;
 2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.

- (c) The tax credit shall be the amount by which the tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.
- (4) Notwithstanding any other provisions of this chapter, an approved company that is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020~~141.020(2)~~, as follows:
 - (a) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made in this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
 - (b) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.23-005 to 154.23-079.
 - (c) If the tax computed in this section exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
 - (d) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the economic development project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.

- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.23-005 to 154.23-079 and the allowable income tax credit that an approved company may retain under KRS 154.23-005 to 154.23-079.

➔Section 89. KRS 141.403 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
- (a) "Approved company" shall have the same meaning as set forth in KRS 154.26-010;
 - (b) "Economic revitalization project" shall have the same meaning as set forth in KRS 154.26-010;
 - (c) "Tax credit" means the tax credit allowed in KRS 154.26-090;
 - (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~{(1)}~~ shall:
- (a)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~{ as defined by KRS 141.010(11)}~~ or taxable net income~~{ as defined by KRS 141.010(14)}~~, including income from the economic revitalization project;
 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic revitalization project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (b)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~{ as defined by KRS 141.010(11)}~~ or taxable net income~~{ as defined by KRS 141.010(14)}~~, excluding net income attributable to the economic revitalization project;
 2. Using the same method used under subparagraph 2. of paragraph (a) of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the economic revitalization project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
 - (c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.26-090.
- (4) (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed KRS 141.040 shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020~~{(2)}~~.
- (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
 - (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.26-090.
 - (d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.

- (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the economic revitalization project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic revitalization project is an expansion to a previously existing facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic revitalization project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic revitalization project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility. Kentucky gross receipts or Kentucky gross profits attributable to the economic revitalization project for purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic revitalization project pursuant to a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic revitalization project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic revitalization project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may issue administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax credit which an approved company may retain under KRS 154.26-010 to 154.26-100.

➔Section 90. KRS 141.405 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" has the same meaning as set forth in KRS 154.12-2084;
 - (b) "Skills training investment credit" has the same meaning as set forth in KRS 154.12-2084;
 - (c) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (d) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- (2) An approved company shall determine the tax credit as provided in this section.
- (3) (a) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(4)~~ shall:

1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~;
 2. Compute the limited liability entity tax imposed under KRS 141.0401 on Kentucky gross profits or Kentucky gross receipts; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this subsection;
- (b) The amount of the skills training investment credit that the Bluegrass State Skills Corporation has given final approval for under KRS 154.12-2088(6) shall be applied against the net tax computed under paragraph (a)3. of this subsection; and
 - (c) The skills training investment credit payment shall not exceed the amount of the final approval awarded by the Bluegrass State Skills Corporation under KRS 154.12-2088(6).
- (4) (a) In the case of an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be taken against the tax imposed by KRS 141.0401 by the approved company, and shall also be apportioned among the partners, members, or shareholders thereof at the same ratio as the partners', members', or shareholders' distributive shares of income are determined for the tax year during which the final authorization resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).
 - (b) The amount of the tax credit apportioned to each partner, member, or shareholder that may be claimed in any tax year of the partner, member, or shareholder shall be determined in accordance with the provisions of KRS 154.12-2086.
- (5) (a) In the case of an approved company that is a trust not subject to the tax imposed by KRS 141.040, the amount of the tax credit awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6) shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the final authorizing resolution is adopted by the Bluegrass State Skills Corporation in KRS 154.12-2088(6).
 - (b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.12-2086.
- (6) The Department of Revenue may promulgate administrative regulations in accordance with KRS Chapter 13A adopting forms and procedures for the reporting of the credit allowed in KRS 154.12-2084 to 154.12-2089.

➔Section 91. KRS 141.407 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" shall have the same meaning as set forth in KRS 154.24-010;
 - (b) "Economic development project" shall have the same meaning as economic development project as set forth in KRS 154.24-010;
 - (c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150;
 - (d) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (e) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.
- (2) An approved company shall determine the tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~(11)~~ shall:
 - (a) 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, including income from the economic development project;
 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the economic development project; and

3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
- (b)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, excluding net income attributable to the economic development project;
 2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
- (c) The tax credit shall be the amount by which the net tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.
- (4)
 - (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or a trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020~~(2)~~.
 - (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
 - (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.24-020 to 154.24-150.
 - (d) If the tax computed herein exceeds the credit, the excess shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
 - (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the economic development project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (7) If the economic development project is an expansion to a previously existing facility:
 - (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue; and

- (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (8) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the economic development project using an alternative method approved by the Department of Revenue.
- (9) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under KRS 154.24-010 to 154.24-150.

➔Section 92. KRS 141.414 is amended to read as follows:

- (1) A qualified farming operation which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040 shall:
 - (a)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, including income from the qualified farming operation's participation in a networking project.
 2. Compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the qualified farming operation's participation in a networking project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph;
 - (b)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 applies on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, excluding net income attributable to the qualified farming operation's participation in a networking project;
 2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, excluding Kentucky gross profits or Kentucky gross receipts from the qualified farming operation's participation in a networking project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph; and
 - (c) Be entitled to a tax credit in the amount by which the tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410.
- (2) Notwithstanding any other provisions of this chapter, a qualified farming operation which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to its participation in a networking project at the rates provided in KRS 141.020~~((2))~~, and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.

- (3) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (2) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (4) If the networking entity is a separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (1), (2), and (3) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the project and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (1) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.
- (5) If the networking project is an expansion to a previously existing farming operation:
 - (a) Net income attributable to the entire operation shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the farming operation's participation in the networking project and overhead expenses apportioned to the networking project, and the net income attributable to the networking project for the purposes of subsections (1), (2), and (3) of this section shall be determined by apportioning the separate accounting net income of the entire networking project to the networking project by a formula approved by the Department of Revenue; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the economic development project for the purposes of subsection (1) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the economic development project by a formula approved by the Department of Revenue.
- (6) If an approved company can show to the satisfaction of the Department of Revenue that the nature of the operations and activities of the approved farming operation are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the networking project, the approved farming operation shall determine net income, Kentucky gross receipts, or Kentucky gross profits from its participation in the networking project using an alternative method approved by the Department of Revenue.
- (7) The Department of Revenue may promulgate administrative regulations pursuant to KRS Chapter 13A and require the filing of forms designed by the Department of Revenue necessary to effectuate KRS 141.0101 and KRS 141.410 to 141.414 and the allowable income tax credit which an approved farming operation may retain under the provisions of KRS 141.412 and this section.

➔Section 93. KRS 141.415 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Approved company" means the same as defined in KRS 154.32-010 or 154.34-010;
 - (b) "Economic development project" means the same as defined in KRS 154.32-010;
 - (c) "Reinvestment project" means the same as defined in KRS 154.34-010;
 - (d) "Tax credit" means the tax credit allowed in KRS 154.34-120 or the credit allowed in KRS 154.32-070, as the case may be;
 - (e) "Kentucky gross receipts" means the same as defined in KRS 141.0401; and
 - (f) "Kentucky gross profits" means the same as defined in KRS 141.0401.
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation or pass-through entity treated as a corporation for federal income tax purposes subject to tax under KRS 141.040~~{(1)}~~ shall:

- (a)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, including income from a reinvestment project or economic development project;
 2. Compute the limited liability entity tax imposed under KRS 141.0401 including Kentucky gross profits or Kentucky gross receipts from the reinvestment project or economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
- (b)
 1. Compute the tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income~~[as defined by KRS 141.010(11)]~~ or taxable net income~~[as defined by KRS 141.010(14)]~~, excluding net income attributable to a reinvestment project or economic development project;
 2. Using the same method used under paragraph (a)2. of this subsection, compute the limited liability entity tax imposed under KRS 141.0401, including Kentucky gross profits or Kentucky gross receipts from the reinvestment project or economic development project; and
 3. Add the amounts computed under subparagraphs 1. and 2. of this paragraph and, if applicable, subtract the credit permitted by KRS 141.0401(3) from that sum. The resulting amount shall be the net tax for purposes of this paragraph.
- (c) The tax credit shall be the amount by which the tax computed under paragraph (a)3. of this subsection exceeds the tax computed under paragraph (b)3. of this subsection; however, the credit shall not exceed the limits set forth in KRS 154.32-070 or 154.34-120, as the case may be.
- (4)
 - (a) Notwithstanding any other provisions of this chapter, an approved company which is a pass-through entity not subject to the tax imposed by KRS 141.040 or trust not subject to the tax imposed by KRS 141.040 shall be subject to income tax on the net income attributable to a reinvestment project or economic development project at the rates provided in KRS 141.020~~{(2)}~~.
 - (b) The amount of the tax credit shall be determined as provided in subsection (3) of this section. Upon the annual election of the approved company, in lieu of the tax credit, an amount shall be applied as an estimated tax payment equal to the tax computed in this section. Any estimated tax payment made pursuant to this paragraph shall be in satisfaction of the tax liability of the partners, members, shareholders, or beneficiaries of the pass-through entity or trust, and shall be paid on behalf of the partners, members, shareholders, or beneficiaries.
 - (c) The tax credit or estimated payment shall not exceed the limits set forth in KRS 154.32-070 or 154.34-120, as the case may be.
 - (d) If the tax computed in this section exceeds the tax credit, the difference shall be paid by the pass-through entity or trust at the times provided by KRS 141.160 for filing the returns.
 - (e) Any estimated tax payment made by the pass-through entity or trust in satisfaction of the tax liability of partners, members, shareholders, or beneficiaries shall not be treated as taxable income subject to Kentucky income tax by the partner, member, shareholder, or beneficiary.
- (5) Notwithstanding any other provisions of this chapter, the net income subject to tax, the tax credit, and the estimated tax payment determined under subsection (4) of this section shall be excluded in determining each partner's, member's, shareholder's, or beneficiary's distributive share of net income or credit of a pass-through entity or trust.
- (6) If the reinvestment project or economic development project is a totally separate facility:
 - (a) Net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the project for the purposes of subsection (3) of this section shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility.

- (7) If the reinvestment project or economic development project is an expansion to a previously existing facility:
- (a) Net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the reinvestment project or economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the reinvestment project or economic development project by a formula approved by the department; and
 - (b) Kentucky gross receipts or Kentucky gross profits attributable to the entire facility shall be determined under the separate accounting method reflecting only the Kentucky gross receipts or Kentucky gross profits directly attributable to the facility, and Kentucky gross receipts or Kentucky gross profits attributable to the reinvestment project or economic development project for the purposes of subsection (3) of this section shall be determined by apportioning the separate accounting Kentucky gross receipts or Kentucky gross profits of the entire facility to the reinvestment project or economic development project by a formula approved by the department.
- (8) If an approved company can show to the satisfaction of the department that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income, Kentucky gross receipts, or Kentucky gross profits from the facility at which the reinvestment project or economic development project is located, the approved company shall determine net income, Kentucky gross receipts, or Kentucky gross profits from the reinvestment project or economic development project using an alternative method approved by the department.
- (9) The department may promulgate administrative regulations and require the filing of forms designed by the department to reflect the intent of KRS 154.34-010 to 154.34-100 and Subchapter 32 of KRS Chapter 154, and the allowable income tax credit which an approved company may retain under KRS 154.34-010 to 154.34-100 or Subchapter 32 of KRS Chapter 154.

➔Section 94. KRS 161.540 is amended to read as follows:

- (1) (a) Effective July 1, 1988, each individual who first becomes a member before July 1, 2008, shall contribute to the retirement system nine and eight hundred fifty-five thousandths percent (9.855%) of annual compensation, except that university employees who participate in the Kentucky Teachers' Retirement System shall contribute eight and three hundred seventy-five thousandths percent (8.375%) of annual compensation.
- (b) Each individual who first becomes a member on or after July 1, 2008, shall contribute to the retirement system ten and eight hundred fifty-five thousandths percent (10.855%) of annual compensation, except that university employees who participate in the Kentucky Teachers' Retirement System shall contribute nine and three hundred seventy-five thousandths percent (9.375%) of annual compensation.
- (c) 1. Effective July 1, 2010, members shall, in addition to those contributions required under paragraphs (a) and (b) of this subsection, make a contribution to the medical insurance fund established under KRS 161.420(5) according to the following schedule:
 - a. For each individual who first became a member of the retirement system before July 1, 2008, a total amount of annual compensation equal to and effective on:

July 1, 2010.....	Twenty-five hundredths percent (.25%)
July 1, 2011.....	One-half percent (0.50%)
July 1, 2012.....	One percent (1.0%)
July 1, 2013.....	One and one-half percent (1.5%)
July 1, 2014.....	Two and twenty-five hundredths percent (2.25%)
July 1, 2015,	
and thereafter.....	Three percent (3.0%) for a total of three and
	seventy-five hundredths percent (3.75%)

when added to the contributions required

under KRS 161.420(5)(a); or

- b. For each individual who first becomes a member of the retirement system on or after July 1, 2008, a total amount of annual compensation equal to and effective on:

July 1, 2013.....One-half percent (0.50%)

July 1, 2014.....One and twenty-five hundredths percent (1.25%)

July 1, 2015,

and thereafter.....Two percent (2.0%) for a total of three and

seventy-five hundredths percent (3.75%)

when added to the contributions required

under KRS 161.420(5)(a)

2. Notwithstanding subparagraph 1. of this paragraph, members employed by any employer identified in KRS 161.220(4)(b) or (n) shall contribute, as a percentage of their total annual compensation, the actuarial equivalent of the percentage contributed by members under subparagraph 1. of this paragraph, not to exceed the percentages established under the schedules set forth in subparagraph 1. of this paragraph. The actuarial equivalent to be contributed under this subsection shall be determined by the retirement system's actuary. These contributions shall be in lieu of those contributions required under subparagraph 1. of this paragraph.
 3. When the medical insurance fund established under KRS 161.420(5) achieves a sufficient prefunded status as determined by the retirement system's actuary, the board of trustees shall recommend to the General Assembly that the contributions required under subparagraphs 1. and 2. of this paragraph shall, in an actuarially accountable manner, be either decreased, suspended, or eliminated.
- (d) Payments authorized by statute that are made to retiring members, who became members of the system before July 1, 2008, for not more than sixty (60) days of unused accrued annual leave shall be considered as part of the member's annual compensation, and shall be used only for the member's final year of active service. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. In the event a member is awarded a court-ordered back salary payment the employer shall deduct and remit the member contribution on the salary payment, plus interest to be paid by the employer, to the retirement system unless otherwise specified by the court order.
- (2) Each public board, institution, or agency listed in KRS 161.220(4) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the member contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010~~(40)~~. The picked-up member contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the member contribution, and the picked-up member contribution shall be in lieu of a member contribution. Each employer shall pay these picked-up member contributions from the same source of funds which is used to pay earnings to the member. The member shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Member contributions picked-up after August 1, 1982, shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as member contributions made prior to August 1, 1982.

➔SECTION 95. A NEW SECTION OF SUBCHAPTER 26 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

By July 1, 2019, and by each July 1 thereafter, the authority and the Department of Revenue shall jointly provide a report to the Interim Joint Committee on Appropriations and Revenue for each project approved under this subchapter. The report shall contain the following information:

- (1) ***The name of each approved company and the location of each economic revitalization project;***
- (2) ***The amount of approved costs for each economic revitalization project;***

- (3) *The date the agreement was approved, the type of approval issued at that point in time, and whether the project is active or inactive;*
- (4) *Whether an assessment fee authorized by KRS 154.26-100 was a part of the agreement;*
- (5) *The number of employees employed in manufacturing, the number of employees employed in coal mining and processing, or the number of employees employed in agribusiness operations;*
- (6) *Whether the project was a supplemental project; and*
- (7) *By taxable year, the amount of tax credit claimed on the taxpayer's return, any amount denied by the department, and the amount of any tax credit remaining to be carried forward.*

➔Section 96. KRS 141.068 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;
 - (b) "Investor" has the same meaning as set forth in KRS 154.20-254;
 - (c) "Investment fund" has the same meaning as set forth in KRS 154.20-254;
 - (d) "Investment fund manager" has the same meaning as set forth in KRS 154.20-254; and
 - (e) "Tax credit" means the credits provided for in KRS 154.20-258.
- (2)
 - (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under KRS 154.20-258 against the tax due computed as provided by KRS 141.020 or 141.040, respectively, and against the tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.
 - (b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of KRS 154.20-258.
- (3)
 - (a) In the case of an investor that is a pass-through entity not subject to the tax imposed by KRS 141.040, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be taken by the pass-through entity against the limited liability entity tax imposed by KRS 141.0401, and shall also be apportioned among the partners, members, or shareholders at the same ratio as the partners', members', or shareholders' distributive shares of income are determined for the tax year during which the amount of the credit is certified by the authority.
 - (b) The amount of the tax credit apportioned to each partner, member, or shareholder that may be claimed in any tax year of the partner, member, or shareholder shall be determined in accordance with the provisions of KRS 154.20-258.
- (4)
 - (a) In the case of an investor that is a trust not subject to the tax imposed by KRS 141.040, the amount of the tax credit certified by the authority under KRS 154.20-258 shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.
 - (b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of KRS 154.20-258.
- (5) The Department of Revenue shall promulgate administrative regulations under KRS Chapter 13A to adopt procedures for the administration of the credits authorized by KRS 154.20-258.
- (6) *In order for the General Assembly to evaluate the fulfillment of the purposes stated in KRS 154.20-250, the department shall work jointly with the Cabinet for Economic Development to provide a report detailing each investment fund agreement entered into by the cabinet. The report shall be submitted to the Interim Joint Committee on Appropriations and Revenue on or before May 1, 2019, and contain the following information:*
 - (a) *The date the agreement was entered into by the cabinet with the investment fund manager;*
 - (b) *The name of the investment fund manager and the name of the investment fund;*
 - (c) *The primary business location of the investment fund;*

- (d) *The total number of investment funds, the number of investors for each fund, the amount of committed cash contributions to each investment fund, and the total qualified investments made by each investment fund, including initial and subsequent investments, for each small business;*
 - (e) *A list detailing each investor within each investment fund, the amount of investment made by each investor, and the amount of tax credit awarded each investor;*
 - (f) *Whether the authority has suspended the availability of any credits, terminated any agreements, or pursued any other remedy because the investment fund manager failed to comply with the agreement;*
 - (g) *By taxable year, the amount of tax credit claimed by each investor by type of tax, including income tax, any taxes imposed on financial institutions, or insurance taxes;*
 - (h) *The number of small businesses that are active, inactive, or closed that have received investments from an investment fund;*
 - (i) *The number and location of each new small business established or expanded;*
 - (j) *The number and location of each new job created;*
 - (k) *The number of new products and technologies created; and*
 - (l) *The total amount of tax credit awarded for each fiscal year.*
- (7) *If either the department or the Cabinet for Economic Development does not currently have the data to fulfill the reporting requirement of subsection (6) of this section, the department and the cabinet shall work jointly to obtain the data in an expedient manner to provide the report on or before the May 1, 2019, report date.*

➔Section 97. KRS 141.396 is amended to read as follows:

- (1) As used in this section:
- (a) "Authority" has the same meaning as in KRS 154.20-230;
 - (b) "Qualified investor" has the same meaning as in KRS 154.20-230;
 - (c) "Qualified small business" has the same meaning as in KRS 154.20-230; and
 - (d) "Taxpayer" means an individual subject to the tax imposed by KRS 141.020, who has either:
 - 1. Received a credit from the authority pursuant to KRS 154.20-236; or
 - 2. Received a credit through a valid transfer allowed under this section from a qualified investor that was originally awarded the credit.
- (2) For taxable years beginning on or after January 1, 2015, there is hereby created the angel investor tax credit. The credit shall be nonrefundable, and shall apply against the tax imposed by KRS 141.020. The ordering of the credit shall be as provided in KRS 141.0205.
- (3) A qualified investor may seek a credit by applying to the authority pursuant to KRS 154.20-236.
- (4) The maximum amount of credit that may be claimed by a taxpayer in any taxable year shall not exceed fifty percent (50%) of the total amount of credit awarded or transferred to the taxpayer.
- (5) Any amount of credit that a taxpayer is unable to utilize during a taxable year may be carried forward for use in a succeeding taxable year for a period not to exceed fifteen (15) years. Any amount of credit not used within fifteen (15) years shall be lost. No amount of credit may be carried back by any taxpayer.
- (6) The credit shall not apply to any liability a taxpayer may have for interest, penalties, past due taxes, or any other additions to the taxpayer's tax liability. The holder of the credit shall assume any and all liabilities and responsibilities of the credit.
- (7) A credit may be transferred by a qualified investor to any individual taxpayer. A qualified investor making a transfer shall give written notice to the department and shall provide any other information required by the department, in the manner prescribed by the department. Any transferred credit shall be subject to the original timeframes and requirements established by this section and KRS 154.20-230 to 154.20-240 as if held by the qualified investor.

- (8) To receive the credit, a taxpayer shall claim the credit on his or her return in the manner prescribed by the department.
- (9) The department shall recapture any portion, or the full amount, of a credit upon notification from the authority that a recapture is required pursuant to KRS 154.20-240.
- (10) *In order for the General Assembly to evaluate the fulfillment of the purposes stated in KRS 154.20-232, the department and the Cabinet for Economic Development shall work jointly to submit the following information to the Interim Joint Committee on Appropriations and Revenue on or before May 1, 2019, related to each taxable year that an angel investor credit is claimed on a return:*
 - (a) *The number of qualified small businesses certified by the authority;*
 - (b) *The demographics of each qualified small business, including:*
 - 1. *The net worth of the qualified small business;*
 - 2. *The qualified activity the qualified small business is actively and principally engaged in within the Commonwealth;*
 - 3. *The number of employees of the qualified small business;*
 - 4. *The location of the assets, operations, and employees of the qualified small business; and*
 - 5. *The aggregate amount of qualified investments received by the qualified small business;*
 - (c) *A list detailing each qualified investor certified by the authority, the amount of investment made by each qualified investor, the date each qualified investment is made by the qualified investor, and the amount of tax credit awarded each investor;*
 - (d) *By taxable year, the amount of tax credit claimed by each investor and the amount of credit available to be claimed in future taxable years;*
 - (e) *The number of qualified small businesses that are active, inactive, or closed that have received qualified investments;*
 - (f) *The number of qualified small businesses that have established a location in the Commonwealth and the number that have expanded operations, the number and location of each new job created, a description of each development of new products and technologies in the Commonwealth, and the field of operation for that growth, including knowledge-based, high-tech, or research and development; and*
 - (g) *The total amount of tax credit awarded for each fiscal year.*
- (11) *If either the department or the Cabinet for Economic Development does not currently have the data to fulfill the reporting requirement of subsection (10) of this section, the department and the cabinet shall work jointly to obtain the data in an expedient manner to provide the report on or before the May 1, 2019, report date.*

➔Section 98. KRS 154.20-236 is amended to read as follows:

- (1) The total amount of ~~off-tax~~ credit that may be awarded by the authority in each calendar year, pursuant to KRS 154.20-230 to 154.20-240, to:
 - (a) All qualified investors shall be no more than three million dollars (\$3,000,000); and
 - (b) Any individual qualified investor shall be no more than two hundred thousand dollars (\$200,000).
- (2) (a) The total amount of ~~off-tax~~ credit that may be awarded by the authority to:
 - 1. ~~(a)~~ All qualified investors pursuant to KRS 154.20-230 to 154.20-240; and
 - 2. ~~(b)~~ All investors in all investment funds pursuant to KRS 154.20-250 to 154.20-284;
 shall be no more than forty million dollars (\$40,000,000) in total for all years *prior to December 31, 2020*.
 - (b) *Beginning on or after January 1, 2021, the amount of credit that may be awarded by the authority in each calendar year shall be equal to the amount provided in subsection (1) of this section. [Once this total amount of off-tax credit has been awarded by the authority pursuant to KRS 154.20-230 to 154.20-240 and KRS 154.20-250 to 154.20-284,] [no further awards of any tax credit shall be made.]*

- (c) ***The authority shall not grant preliminary or final approval for applications received for the Kentucky Angel Investor Act on or after January 1, 2019, but may resume approving applications received on or after January 1, 2021.***
- (3) The authority shall, by promulgation of an administrative regulation, develop a standard procedure for:
- (a) Small businesses and investors to request certification for participation in the program;
 - (b) Qualified investors to request certification of a planned investment as being a qualified investment, and to apply for a credit; and
 - (c) The award of credits to qualified investors making qualified investments.
- (4) At a minimum, the procedure shall:
- (a) Require small businesses and investors to demonstrate to the authority that they, and any planned investment, satisfy all requirements provided in KRS 154.20-234;
 - (b) Provide small businesses and investors with a standard written application form to request certification and apply for a credit;
 - (c) Require the payment of a fee; and
 - (d) Mandate a time period for the duration of certifications granted to small businesses and investors, and the procedures for recertification thereof.
- (5) The amount of credit awarded shall be equal to:
- (a) Forty percent (40%) of the amount of the qualified investment, if the principal place of business of the qualified small business is outside an enhanced incentive county; or
 - (b) Fifty percent (50%) of the amount of the qualified investment, if the principal place of business of the qualified small business is in an enhanced incentive county.
- (6) Upon approval of a credit, the authority shall reduce the amount of available credit by the amount of credit approved to the qualified investor.
- (7) The authority may, in effectuating this section, contract with a science and technology organization as defined in KRS 164.6011 to administer and manage the certification and application procedure established by the authority. However, the final approval of all credits shall be made solely by the authority.
- ➔Section 99. KRS 154.20-255 is amended to read as follows:
- (1) (a) The total amount of ~~tax~~ credits available to any single investment fund awarded ~~tax~~ credits under KRS 154.20-250 to 154.20-284 shall not exceed, in aggregate, eight million dollars (\$8,000,000) for all investors and all taxable years.
- (b) The total tax credits available for all investors in all investment funds awarded under KRS 154.20-250 to 154.20-284, and all qualified investors awarded under KRS 154.20-230 to 154.20-240, shall not exceed a total of forty million dollars (\$40,000,000) ***for all years prior to December 31, 2020.***
- (c) ***The total credit available for all investors in all investment funds awarded under KRS 154.20-250 to 154.20-284 shall not exceed a total of three million dollars (\$3,000,000) in any calendar year beginning on or after January 1, 2021.***
- (d) ***The authority shall not grant preliminary or final approval for applications received for the Kentucky Investment Fund Act on or after January 1, 2019, but may resume approving applications received on or after January 1, 2021.***
- (2) A person or entity seeking to be approved as an investment fund manager for the operation of one (1) or more investment funds shall make written application to the authority pursuant to KRS 154.20-256, in addition to complying with applicable state and federal securities laws and regulations.
- (3) Prior to the granting of any tax credits to investors of an investment fund, the committed cash contributions to an investment fund shall be not less than five hundred thousand dollars (\$500,000).
- (4) An investment fund shall have no less than four (4) investors, and no investor or investment fund manager, including their immediate family members, as defined in KRS 164.6011(6), and affiliates may own or have a capital interest in more than forty percent (40%) of the investment fund's capitalization.

- (5) Subsequent to approval of the investment fund and the investment fund manager, the authority and the investment fund manager, on behalf of itself and any investors in the investment fund, shall enter into an agreement with respect to the investment fund. The terms and provisions of each agreement shall be determined by negotiations between the authority and the investment fund manager. The effective date of the agreement shall be the date of approval of the investment fund and the investment fund manager by the authority. If an investment fund manager fails to comply with any of the obligations of the agreement, the authority may, at its option, do any one (1) or more of the following:
 - (a) Suspend the availability of the credits;
 - (b) Pursue any remedy provided under the agreement, including termination of the agreement; or
 - (c) Pursue any other remedy at law to which it may be entitled.
- (6) Any investor shall be entitled to a tax credit as a result of its investment in an investment fund as provided in KRS 154.20-258.
- (7) Total qualified investments made by an investment fund, including initial and subsequent investments made by an investment fund, in any single small business using approved qualified investments, shall not exceed thirty percent (30%) of the committed cash contributions to the investment fund. This restriction shall not apply to investments of money by the investment fund that are not qualified investments.
- (8) The provisions of this section shall not prohibit an investment fund from investing in a business that is not a small business, including a business that is located outside of the Commonwealth; however, such investments shall not be eligible for the tax credit set forth in KRS 154.20-258.

➔Section 100. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Department of Revenue.

- (1) The department shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and department employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
- (2) The department shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the department. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the department distributed to the public.
- (3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the department. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.
- (4) The department shall perform audits and conduct conferences and hearings only at reasonable times and places.
- (5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the department. The department may make similar audio recordings if prior written notice is given to the taxpayer or if the taxpayer records the conference or hearing. The taxpayer shall be entitled to a copy of this department recording or a transcript as provided in KRS 61.874.
- (6) If any taxpayer's failure to submit a timely return or payment to the department is due to the taxpayer's reasonable reliance on written advice from the department, the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the department and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the department did not subsequently rescind or modify the advice in writing, and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the department's earlier written advice no longer valid.
- (7) Taxpayers shall have the right to receive a copy of any audit of the department by the Auditor of Public Accounts relating to the department's compliance with the provisions of KRS 131.041 to 131.081.

- (8) The department shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.
- (9) (a) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating:
1. His or her inability to pay in full; and
 2. That the agreement will facilitate collection by the department of the amounts owed.
- (b) The department may modify or terminate an installment payment agreement and may pursue statutory remedies against the taxpayer if it determines that:
1. The taxpayer has not complied with the terms of the agreement, including minimum payment requirements established by the agreement;
 2. The taxpayers' financial condition has sufficiently changed;
 3. The taxpayer fails to provide any requested financial condition update information;
 4. The taxpayer gave false or misleading information in securing the agreement; or
 5. The taxpayer fails to timely report and pay any other tax due the Commonwealth.
- (c) The department shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the department has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.
- (10) The department shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Department of Revenue personnel.
- (11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the department in writing and provides a copy of the extension at the time and in the manner which the department may require.
- (12) The department shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position. When the department releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.
- (13) (a) The department shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.
- (b) ***No arrangement or contract shall be entered into for the service to:***
1. ***Examine a taxpayer's books and records;***
 2. ***Collect a tax from a taxpayer; or***
 3. ***Provide legal representation of the department;***
- if any part of the compensation or other benefits paid or payable for the service is contingent upon or otherwise related to the amount of tax, interest, fee, or penalty assessed against or collected from the taxpayer. Any such arrangement or contract shall be void and unenforceable.***
- (14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Kentucky Claims Commission for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, ~~or~~ and intentional disregard by department employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the department. In the awarding of damages pursuant to

this subsection, the commission shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the commission, the department shall be reimbursed by the taxpayer for its costs in defending the action. Any claims brought pursuant to this subsection shall be in accordance with KRS 49.040 to 49.180.

- (15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the department to any person or be intentionally and without authorization inspected by any present or former commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

➔Section 101. KRS 49.250 is amended to read as follows:

- (1) Any party aggrieved by any final order of the commission, except on appeals from a county board of assessment appeals, may appeal to the Franklin Circuit Court or to the Circuit Court of the county in which the party aggrieved resides or conducts his place of business in accordance with KRS Chapter 13B. Any final orders entered on the rulings of a county board of assessment appeals may be appealed in like manner to the Circuit Court of the county in which the appeal originated.
- (2) If the appeal is from an order sustaining a tax assessment, collection of the tax ~~shall may~~ be stayed by the filing of a *petition or an appeal to any court. Full payment of the tax or a supersedeas bond is not required to appeal an order sustaining a tax assessment* ~~[supersedeas bond in the manner directed by the Rules of Civil Procedure, or by payment of the tax as provided in KRS 134.580].~~

➔Section 102. KRS 131.190 is amended to read as follows:

- (1)~~(a)~~ No present or former commissioner or employee of the department~~[of Revenue]~~, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.
- (2)~~(b)~~ The prohibition established by *subsection (1)*~~[paragraph (a)]~~ of this *section shall*~~[subsection does]~~ not extend to:
- (a)~~(1)~~ Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
- (b)~~(2)~~ Any matter properly entered upon any assessment record, or in any way made a matter of public record;
- (c)~~(3)~~ Furnishing any taxpayer or his properly authorized agent with information respecting his own return;
- (d)~~(4)~~ Testimony provided by the commissioner or any employee of the department~~[of Revenue]~~ in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;
- (e)~~(5)~~ Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820~~(1)~~, or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820~~(2)~~, that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2)~~(21)~~. The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;
- (f)~~(6)~~ Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820~~(1)~~. The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this *paragraph*~~[subparagraph]~~. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10);~~or~~

- (g)~~[(7)]~~ Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817;
- (h) *Statistics of gasoline and special fuels gallonage reported to the department under KRS 138.210 to 138.448;*
- (i) *Providing any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617 to applicable school districts on a confidential basis; or*
- (j) *Providing information to the Legislative Research Commission under:*
1. *KRS 139.519 for purposes of the sales and use tax refund on building materials used for disaster recovery;*
 2. *KRS 141.436 for purposes of the energy efficiency products credits;*
 3. *KRS 141.437 for purposes of the ENERGY STAR home and the ENERGY STAR manufactured home credits;*
 4. *Section 62 of this Act for purposes of the film industry incentives;*
 5. *Section 95 of this Act for purposes of the Kentucky industrial revitalization tax credits and the job assessment fees;*
 6. *Section 96 of this Act for purposes of the Kentucky investment fund;*
 7. *Section 97 of this Act for purposes of the angel investor tax credit;*
 8. *Section 103 of this Act for purposes of the distilled spirits credit; and*
 9. *Section 115 of this Act for purposes of the inventory credit.*
- (3)~~[(2)]~~ The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return.
- ~~[(3)] Statistics of tax paid gasoline gallonage reported monthly to the department of Revenue under the gasoline excise tax law may be made public by the department.]~~
- (4) Access to and inspection of information received from the Internal Revenue Service is for department~~[of Revenue]~~ use only, and is restricted to tax administration purposes.~~[Notwithstanding the provisions of this section to the contrary,]~~ Information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the department~~[of Revenue]~~, or any other person.
- (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Department of Revenue under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.
- (6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.
- ~~[(7) Notwithstanding any other provision of the Kentucky Revised Statutes, The department may divulge to the applicable school districts on a confidential basis any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617.]~~
- ➔Section 103. KRS 141.389 is amended to read as follows:
- (1) (a) There shall be allowed a nonrefundable and nontransferable credit to each taxpayer paying the distilled spirits ad valorem tax as follows:

1. For taxable years beginning on or after January 1, 2015, and before December 31, 2015, the credit shall be equal to twenty percent (20%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 2. For taxable years beginning on or after January 1, 2016, and before December 31, 2016, the credit shall be equal to forty percent (40%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 3. For taxable years beginning on or after January 1, 2017, and before December 31, 2017, the credit shall be equal to sixty percent (60%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
 4. For taxable years beginning on or after January 1, 2018, and before December 31, 2018, the credit shall be equal to eighty percent (80%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis; and
 5. For taxable years beginning on or after January 1, 2019, the credit shall be equal to one hundred percent (100%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis.
- (b) The credit shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205.
- (2) The amount of distilled spirits credit allowed under subsection (1) of this section shall be used only for capital improvements at the premises of the distiller licensed pursuant to KRS Chapter 243. As used in this subsection, "capital improvement" means any costs associated with:
- (a) Construction, replacement, or remodeling of warehouses or facilities;
 - (b) Purchases of barrels and pallets used for the storage and aging of distilled spirits in maturing warehouses;
 - (c) Acquisition, construction, or installation of equipment for the use in the manufacture, bottling, or shipment of distilled spirits;
 - (d) Addition or replacement of access roads or parking facilities; and
 - (e) Construction, replacement, or remodeling of facilities to market or promote tourism, including but not limited to a visitor's center.
- (3) The distilled spirits credit allowed under subsection (1) of this section:
- (a) May be accumulated for multiple taxable years;
 - (b) Shall be claimed on the return of the taxpayer filed for the taxable year during which the credits were used pursuant to subsection (2) of this section; and
 - (c) Shall not include:
 1. Any delinquent tax paid to the Commonwealth; or
 2. Any interest, fees, or penalty paid to the Commonwealth.
- (4) (a) Before the distilled spirits credit shall be allowed on any return, the capital improvements required by subsection (2) of this section shall be completed and specifically associated with the credit allowed on the return.
- (b) The amount of distilled spirits credit allowed shall be recaptured if the capital improvement associated with the credit is sold or otherwise disposed of prior to the exhaustion of the useful life of the asset for Kentucky depreciation purposes.
- (c) If the allowed credit is associated with multiple capital improvements, and not all capital improvements are sold or otherwise disposed of, the distilled spirits credit shall be prorated based on the cost of the capital improvement sold over the total cost of all improvements associated with the credit.
- (5) If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.

- (6) The department may promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the allowable credit under this section, require the filing of forms designed by the department, and require specific information for the evaluation of the credit taken by any taxpayer.
- (7) ~~Notwithstanding KRS 131.190,~~ No later than September 1, 2016, and annually thereafter, the department shall report to the Interim Joint Committee on Appropriations and Revenue:
- (a) The name of each taxpayer taking the credit permitted by subsection (1) of this section;
 - (b) The amount of credit taken by that taxpayer; and
 - (c) The type of capital improvement made for which the credit is claimed.

➔Section 104. KRS 131.020 is amended to read as follows:

- (1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:
- (a) Office of the Commissioner, which shall consist of:
 - 1. The Division of Protest Resolution, headed by a division director who shall report directly to the commissioner. The division shall administer the protest functions for the department from office resolution through court action; and
 - 2. The Division of Taxpayer Ombudsman, headed by a division director who shall report to the commissioner. The division shall perform those duties set out in KRS 131.083;
 - (b) Office of Tax Policy and Regulation, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for:
 - 1. Providing oral and written technical advice on Kentucky tax law;
 - 2. Drafting proposed tax legislation and regulations;
 - 3. Testifying before legislative committees on tax matters;
 - 4. Analyzing tax publications;
 - 5. Providing expert witness testimony in tax litigation cases;
 - 6. Providing consultation and assistance in protested tax cases; and
 - 7. Conducting training and education programs;
 - (c) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:
 - 1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;
 - 2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments, including protest resolution, and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and
 - 3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;
 - (d) Office of Property Valuation, headed by an executive director who shall report directly to the commissioner. The office shall consist of the:
 - 1. Division of Local Support, which shall be responsible for providing supervision, assistance, and training to the property valuation administrators and sheriffs within the Commonwealth;

2. Division of State Valuation, which shall be responsible for providing assessments of public service companies and motor vehicles, and providing assistance to property valuation administrators and sheriffs with the administration of tangible and omitted property taxes within the Commonwealth; and
 3. Division of Minerals Taxation and Geographical Information System Services, which shall be responsible for providing geographical information system mapping support, ensuring proper filing of severance tax returns, ensuring consistency of unmined coal assessments, and gathering and providing data to properly assess minerals to the property valuation administrators within the Commonwealth;
- (e) Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
 2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;
- (f) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
 2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and
- (g) Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.
- (2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.
 - (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
 - (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(3)~~[(2)]~~ to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.
 - (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

➔Section 105. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) ~~[1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);~~

2. ~~For taxable years beginning after December 31, 2006,~~ The limited liability entity tax credit permitted by KRS 141.0401;
- (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (c) The qualified farming operation credit permitted by KRS 141.412;
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (e) The health insurance credit permitted by KRS 141.062;
 - (f) The tax paid to other states credit permitted by KRS 141.070;
 - (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) ~~The coal incentive credit permitted under KRS 141.0405;~~
 - ~~(k)~~ The research facilities credit permitted ~~by~~ ~~under~~ KRS 141.395;
 - ~~(k)(4)~~ The employer High School Equivalency Diploma program incentive credit permitted ~~by~~ ~~under~~ KRS 164.0062;
 - ~~(l)(m)~~ The voluntary environmental remediation credit permitted by KRS 141.418;
 - ~~(m)(n)~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - ~~(n)(o)~~ ~~The environmental stewardship credit permitted by KRS 154.48-025;~~
 - ~~(p)~~ The clean coal incentive credit permitted by KRS 141.428;
 - ~~(o)(q)~~ The ethanol credit permitted by KRS 141.4242;
 - ~~(p)(r)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
 - ~~(q)(s)~~ The energy efficiency credits permitted by KRS 141.436;
 - ~~(r)(t)~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
 - ~~(s)(u)~~ The Endow Kentucky credit permitted by KRS 141.438;
 - ~~(t)(v)~~ The New Markets Development Program credit permitted by KRS 141.434;
 - ~~(u)(w)~~ ~~The food donation credit permitted by KRS 141.392;~~
 - ~~(x)~~ The distilled spirits credit permitted by KRS 141.389; ~~and~~
 - ~~(v)(y)~~ The angel investor credit permitted by KRS 141.396;
 - (w) ***The film industry credit permitted by Section 85 of this Act for applications approved on or after the effective date of this Act; and***
 - (x) ***The inventory credit permitted by Section 115 of this Act.***
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020~~(3)~~;
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069; ***and***
 - (d) The household and dependent care credit permitted by KRS 141.067~~;~~ ~~and~~
 - ~~(e) The new home credit permitted by KRS 141.388.~~
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) ~~For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);~~
 - ~~(d)}~~ The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - ~~(d)}~~~~(e)}~~ The film industry tax credit *permitted* ~~allowed~~ by KRS 141.383 *for applications approved prior to the effective date of this Act.*
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - ~~(j)}~~ ~~The coal incentive credit permitted under KRS 141.0405;~~
 - ~~(k)}~~ The research facilities credit permitted ~~by~~ ~~under~~ KRS 141.395;
 - ~~(k)}~~~~(l)}~~ The employer High School Equivalency Diploma program incentive credit permitted ~~by~~ ~~under~~ KRS 164.0062;
 - ~~(l)}~~~~(m)}~~ The voluntary environmental remediation credit permitted by KRS 141.418;
 - ~~(m)}~~~~(n)}~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - ~~(n)}~~~~(o)}~~ ~~The environmental stewardship credit permitted by KRS 154.48-025;~~
 - ~~(p)}~~ The clean coal incentive credit permitted by KRS 141.428;
 - ~~(o)}~~~~(q)}~~ The ethanol credit permitted by KRS 141.4242;
 - ~~(p)}~~~~(r)}~~ The cellulosic ethanol credit permitted by KRS 141.4244;
 - ~~(q)}~~~~(s)}~~ The energy efficiency credits permitted by KRS 141.436;
 - ~~(r)}~~~~(t)}~~ The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - ~~(s)}~~~~(u)}~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
 - ~~(t)}~~~~(v)}~~ The railroad expansion credit permitted by KRS 141.386;
 - ~~(u)}~~~~(w)}~~ The Endow Kentucky credit permitted by KRS 141.438;
 - ~~(v)}~~~~(x)}~~ The New Markets Development Program credit permitted by KRS 141.434;
 - ~~(w)}~~~~(y)}~~ ~~The food donation credit permitted by KRS 141.392; and~~
 - ~~(z)}~~ The distilled spirits credit permitted by KRS 141.389;

- (x) *The film industry credit permitted by Section 85 of this Act for applications approved on or after the effective date of this Act; and*
 - (y) *The inventory credit permitted by Section 115 of this Act.*
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961 and 171.397(1)(b); and
 - (c) The film industry tax credit ~~permitted by~~ *permitted by* ~~allowed in~~ KRS 141.383 *for applications approved prior to the effective date of this Act.*

➔Section 106. KRS 131.110 is amended to read as follows:

- (1) (a) The Department of Revenue shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be due and payable if not protested in writing to the department within:
 - 1. Forty-five (45) days from the date of notice, *for assessments issued prior to July 1, 2018; and*
 - 2. *Sixty (60) days from the date of notice, for assessments issued on or after July 1, 2018.*
- (b) Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 49.220.
- (c) 1. The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made.
- 2. Upon written request, the department may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable.
- 3. The refusal of the extension may be reviewed in the same manner as a protested assessment.
- (2) After a timely protest has been filed, the taxpayer may request a conference with the department. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.
- (3) After considering the taxpayer's protest, including any matters presented at the final conference, the department shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the department, generally state the issues in controversy, the department's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Claims Commission.
- (4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the department shall issue such ruling within thirty (30) days from the date the request is received by the department.
- (5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky Claims Commission pursuant to the provisions of KRS 49.220.

➔Section 107. KRS 131.180 is amended to read as follows:

The provisions of this section shall be known as the "Uniform Civil Penalty Act." Penalties to be assessed in accordance with this section shall apply as follows unless otherwise provided by law:

- (1) Any taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars (\$10).
- (2) Any taxpayer who fails to withhold or collect any tax as required by law, fails to pay the tax computed due on a return or report on or before the due date prescribed for it or the due date as extended by the department or, excluding underpayments determined pursuant to subsections (2) and (3) of KRS 141.990, fails to have timely paid at least seventy-five percent (75%) of the tax determined due by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the tax not withheld, collected, or timely paid for each thirty (30) days or fraction thereof that

the withholding, collection, or payment is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the tax not timely withheld, collected, or paid; however, the penalty shall not be less than ten dollars (\$10).

- (3) Any taxpayer who fails to pay any installment of estimated tax by the time prescribed in KRS 141.044 and 141.305 or who, pursuant to subsections (2) or (3) of KRS 141.990, is determined to have a declaration underpayment shall, unless it is shown to the satisfaction of the department that the failure or underpayment is due to reasonable cause, pay a penalty equal to ten percent (10%) of the amount of the underpayment or late payment; however, the penalty shall not be less than twenty-five dollars (\$25).
- (4) If any taxpayer fails or refuses to make and file a report or return or furnish any information requested in writing by the department, the department may make an estimate of the tax due from any information in its possession, assess the tax at not more than twice the amount estimated to be due, and add a penalty equal to five percent (5%) of the tax assessed for each thirty (30) days or fraction thereof that the return or report is not filed. The total penalty levied pursuant to this subsection shall not exceed fifty percent (50%) of the tax assessed; however, the penalty shall not be less than one hundred dollars (\$100) unless the taxpayer demonstrates that the failure to file was due to reasonable cause as defined in KRS 131.010(9). This penalty shall be applicable whether or not any tax is determined to be due on a subsequently filed return or if the subsequently filed return results in a refund.
- (5) If any taxpayer fails or refuses to pay within ~~sixty (60)~~~~forty-five (45)~~ days of the due date any tax assessed by the department which is not protested in accordance with KRS 131.110, there shall be added a penalty equal to two percent (2%) of the unpaid tax for each thirty (30) days or fraction thereof that the tax is final, due, and owing, but not paid.
- (6) Any taxpayer who fails to obtain any identification number, permit, license, or other document of authority from the department within the time required by law shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of any cost or fee required to be paid for the identification number, permit, license, or other document of authority; however, the penalty shall not be less than fifty dollars (\$50).
- (7) If any tax assessed by the department is the result of negligence by a taxpayer or other person, a penalty equal to ten percent (10%) of the tax so assessed shall be paid by the taxpayer or other person who was negligent.
- (8) If any tax assessed by the department is the result of fraud committed by the taxpayer or other person, a penalty equal to fifty percent (50%) of the tax so assessed shall be paid by the taxpayer or other person who committed fraud.
- (9) If any check tendered to the department is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the taxpayer who tendered the check, upon notice and demand of the department, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars (\$10) nor more than one hundred dollars (\$100). If the taxpayer who tendered the check shows to the department's satisfaction that the failure to honor payment of the check resulted from error by parties other than the taxpayer, the department shall waive the penalty.
- (10) Any person who fails to make any tax report or return or pay any tax within the time, or in the manner required by law, for which a specific civil penalty is not provided by law, shall pay a penalty as provided in this section, with interest from the date due at the tax interest rate as defined in KRS 131.010(6).
- (11) The penalties levied pursuant to subsection (5) of this section shall apply to any tax assessment protested pursuant to KRS 131.110 to the extent that any appeal of the assessment or portion of it is ruled by the Kentucky Claims Commission or, if appealed from, the court of last resort, as not protested, appealed, or pursued in good faith by the taxpayer.
- (12) Nothing in this section shall be construed to prevent the assessment or collection of more than one (1) of the penalties levied under this section or any other civil or criminal penalty provided for violation of the law for which penalties are imposed.
- (13) All penalties levied pursuant to this section shall be assessed, collected, and paid in the same manner as taxes. Any corporate officer or other person who becomes liable for payment of any tax assessed by the department shall likewise be liable for all penalties and interest applicable thereto.

➔Section 108. KRS 131.650 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 131.190 or any other confidentiality law to the contrary, the department may publish a list or lists of taxpayers that owe delinquent taxes or fees administered by the Department of Revenue, and that meet the requirements of KRS 131.652.
- (2) For purposes of this section, a taxpayer may be included on a list if:
 - (a) The taxes or fees owed remain unpaid at least ~~sixty (60)~~~~forty five (45)~~ days after the dates they became due and payable; and
 - (b) A tax lien or judgment lien has been filed of public record against the taxpayer before notice is given under KRS 131.654.
- (3) In the case of listed taxpayers that are business entities, the Department of Revenue may also list the names of responsible persons assessed pursuant to KRS 136.565, 138.885, 139.185, 141.340, and 142.357 for listed liabilities, who are not protected from publication by subsection (2) of this section, and for whom the requirements of KRS 131.652 are satisfied with regard to the personal assessment.
- (4) Before any list is published under this section, the department shall document that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

➔Section 109. KRS 132.485 is amended to read as follows:

- (1) (a) Except as otherwise provided in paragraph (b) of this subsection, the registration of a motor vehicle with a county clerk in order to operate it or permit it to be operated upon the highways of the state shall be deemed consent by the registrant for the motor vehicle to be assessed by the property valuation administrator from a standard manual prescribed by the department for valuing motor vehicles for assessment unless:
 1. The registrant appears before the property valuation administrator to assess the vehicle; or
 2. The motor vehicle is twenty (20) years old or older, in which case paragraph (b) of this subsection applies regarding its valuation.

The standard value of motor vehicles shall be the average trade-in value prescribed by the valuation manual unless information is available that warrants any deviation from the standard value.
- (b) In the case of motor vehicles that are twenty (20) years old or older:
 1. It shall not be presumed that a vehicle has been maintained in, or restored to, the original factory or otherwise classic condition or that its value has increased over the previous year;
 2. In assessing motor vehicles under this paragraph and calculating the taxes due thereon, through the AVIS or otherwise, if the registrant does not appear before the property valuation administrator to assess the vehicle, the standard value shall be as follows:
 - a. The actual valuation of the vehicle as was assessed in the vehicle's nineteenth year, if the vehicle was assessed for taxation in the Commonwealth in that year; or
 - b. The average trade-in value prescribed by the applicable edition of the valuation manual for the vehicle in its nineteenth year, if the vehicle was not assessed for taxation in the Commonwealth in that year;

reduced by ten percent (10%) annually for each year beyond nineteen (19) years; and
 3. In the case of any motor vehicle for which the assessment procedure provided in subparagraph 2.b. of this paragraph would apply but cannot be carried out because the applicable edition of the valuation manual is unavailable, the property valuation administrator shall conduct an assessment of the vehicle to determine the value thereof for the given taxable year. The assessment under this subparagraph may be done in person if the vehicle's owner presents the vehicle at the property valuation administrator's office, or the assessment may be done through a review of photographs and other documentary evidence. In subsequent years, that valuation shall be reduced by ten percent (10%) annually.
- (2) The registration of a recreational vehicle with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant thereof for the recreational vehicle to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the

department for valuing recreational vehicles for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.

- (3) The registration of a motor vehicle on or before the date that the registration of the vehicle is required is prima facie evidence of ownership on January 1.
- (4) When a motor vehicle is purchased in one (1) year, but registration takes place after January 1 of the following year through no fault of the owner, the department shall assess the motor vehicle and shall send notice of the assessment to the January 1 owner in accordance with KRS 186A.035. If the month of registration has passed for the current year, the assessment shall be due and payable if not protested to the department within **sixty (60)**~~forty five (45)~~ days from the date of the notice. Payments made after the due date shall carry the normal penalty and interest for motor vehicles.
- (5) This section does not apply to motor vehicles or recreational vehicles owned and operated by public service companies, common carriers, or agencies of the state and federal governments.

➔Section 110. KRS 136.180 is amended to read as follows:

- (1) The Department of Revenue shall, immediately after fixing the assessed value of the operating property and other property of a public service corporation for taxation, notify the corporation of the valuation and the amount of assessment for state and local purposes. When the valuation has been finally determined, the department shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount of property liable for county, city, or district tax.
- (2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.
- (3) The Department of Revenue shall compute annually a multiplier for use in establishing the local tax rate for the operating property of railroads or railway companies that operate solely within the Commonwealth. The applicable local tax rates on the operating property shall be adjusted by the multiplier. The multiplier shall be calculated by dividing the statewide locally taxable business tangible personal property by the total statewide business tangible personal property.
- (4) The Department of Revenue shall annually calculate an aggregate local rate for each local taxing district to be used in determining local taxes to be collected for railroad carlines. The rate shall be the statewide tangible tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment. Effective January 1, 1994, state and local taxes on railroad carline property shall become due **sixty (60)**~~forty five (45)~~ days from the date of notice and shall be collected directly by the Department of Revenue. The local taxes collected by the Department of Revenue shall be distributed to each local taxing district levying a tax on railroad carlines based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Department of Revenue by any local taxing district under the provisions of subsection (5) of this section shall be deducted.
- (5) The certification of valuation shall be filed by each county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value certified by the department shall pay an annual fee to the department which represents an allocation of department operating and overhead expenses incurred in generating the valuations. This fee shall be determined by the department and shall apply to valuations for tax periods beginning on or after December 31, 1981.

➔Section 111. KRS 136.1804 is amended to read as follows:

- (1) The department shall notify the corporation of the assessed value of its watercraft each year, as soon as possible after rates set by local authorities are provided to the department. The corporation shall have **sixty (60)**~~forty five (45)~~ days from the date of the department's notice of assessment to protest as provided by KRS 131.110.

- (2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The corporation shall pay to the department all state and local taxing district taxes due on the undisputed value of its watercraft as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the corporation shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date the tax would have become due if the assessment had not been appealed. The provisions of KRS 134.015(6) shall apply to the tax bill.
- (3) The state and local taxing district taxes on the watercraft are due ~~sixty (60)~~**sixty (60)**~~forty five (45)~~ days from the date of notice of assessment. The tangible property taxes on watercraft shall be collected in accordance with the provisions of KRS Chapter 134.
- (4) The state rate of taxation on watercraft shall be forty-five cents (\$0.45) upon each one hundred dollars (\$100) of assessed value of the watercraft.
- (5) The department shall annually calculate an aggregate local rate, which shall be imposed upon each one hundred dollars (\$100) of assessed value of the watercraft.
 - (a) The aggregate local rate shall be the sum of each local personal property tax rate for each local taxing district multiplied by a fraction, the numerator of which shall be the length of the navigable waterways in the local taxing district and the denominator of which shall be the total of the length of all navigable waterways in this state. Both the numerator and the denominator shall be adjusted, if necessary, by paragraph (b) of this subsection.
 - (b) For purposes of computing the local property tax rate in paragraph (a) of this section, the length of the navigable waterways of the Green River shall be reduced by fifty percent (50%) and the length of the navigable waterways of the Kentucky River shall be reduced by seventy-five percent (75%).
- (6) The watercraft taxes collected for local taxing districts by the department shall be distributed to each local taxing district based upon the local taxing district's fractional portion of the amount calculated in subsection (5) of this section.
- (7) Prior to distribution of taxes to local taxing districts, the department shall retain an administrative fee of one percent (1%) of the amount due each district. The fee imposed by this subsection shall have no effect upon the discount provided to taxpayers pursuant to KRS 134.015.

➔Section 112. KRS 136.1877 is amended to read as follows:

The provisions of this section shall apply to assessments made prior to January 1, 2007.

- (1) The Department of Revenue shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the department in the manner outlined in KRS 136.1873 shall have ~~sixty (60)~~**sixty (60)**~~forty five (45)~~ days from the date of the department's notice of the tentative assessment to protest as provided by KRS 131.110.
- (2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.
- (3) The state and local taxes on the property are due ~~sixty (60)~~**sixty (60)**~~forty five (45)~~ days from the date of notice and shall be collected directly by the Department of Revenue.
- (4) The Department of Revenue shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.
- (5) The local taxes collected by the Department of Revenue shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Department of Revenue by any local taxing district under the provisions of KRS 136.180(5) shall be deducted.

➔Section 113. KRS 136.188 is amended to read as follows:

- (1) Notwithstanding KRS 132.487, any truck, tractor, or bus which is operated on a route or as part of a system that is partly within and partly outside Kentucky shall be subject to an annual fee at the time the vehicle is registered with and the registration fee is paid to the Transportation Cabinet pursuant to KRS 186.020 and 186.050(3) and (13). The fee shall be imposed on the vehicle's owner or the owner's legal designee as of January 1 of each year. Such payment shall be made to the Transportation Cabinet either directly, in the case of a vehicle based in Kentucky, or indirectly, through the International Registration Plan, in the case of a vehicle based outside of Kentucky.
- (2) The fee imposed by subsection (1) of this section replaces the state and local ad valorem property tax the Department of Revenue previously imposed and centrally collected against trucks, tractors, and buses operated on a route or as part of a system that is partly within and partly outside Kentucky. The fee imposed by subsection (1) of this section shall not be construed as a fee imposed upon the registration, operation, or use of the vehicles on public highways. The Department of Revenue shall use the following method for determining the rate for fixing the assessed value of the property and for determining the annual fee amount:
 - (a) The Department of Revenue shall determine the assessed value on an annual basis by multiplying the purchase price of the truck, tractor, or bus by a depreciation value expressed as a percentage of the original cost from an authoritative source that the Department of Revenue prescribes by promulgation of an administrative regulation;
 - (b) The Department of Revenue shall determine an aggregate state and local rate on an annual basis. The state rate shall be the weighted average commercial and industrial tangible personal property tax rate, and the local rate shall be determined using the method set forth in KRS 136.180(3) and (4);
 - (c) The Department of Revenue shall determine the amount subject to the annual fee by multiplying the total assessed value of all vehicles by an apportionment factor. The apportionment factor shall be determined as provided in KRS 186.050(13)(a); and
 - (d) The annual fee shall be determined by multiplying the amount subject to the annual fee by the rate determined in paragraph (b) of this subsection.

The Department of Revenue shall provide the Transportation Cabinet with the information needed to collect the fee.

- (3) The Transportation Cabinet shall forward the money it collects from the fee imposed by subsection (1) of this section to the Department of Revenue on a monthly basis. The Department of Revenue shall divide and distribute the money among the state, counties, cities, urban-counties, charter counties, consolidated local governments, school districts, and special taxing districts in the same manner as the Department of Revenue divided and distributed the state and local ad valorem property tax previously imposed and centrally collected.
- (4) Pick-up and delivery vehicles operating from a terminal within this state and vehicles that do not leave the state in the normal course of business shall not be required to pay the fee imposed by subsection (1) of this section, but shall instead be subject to the ad valorem tax under KRS 132.487.
- (5) Any person paying the fee imposed by subsection (1) of this section shall have ~~sixty (60)~~~~forty-five (45)~~ days from the date the person is notified of the fee amount to protest. The protest shall be filed with the Commonwealth of Kentucky, Department of Revenue, in accordance with the provisions of KRS 131.110. Notification by any state's or Canadian province's or territory's registration authority of the amount due shall satisfy the notification requirement of KRS 131.110(1).
- (6) No protest or appeal shall delay the collection or payment of the fee imposed by subsection (1) of this section. The fee amount due as determined in subsection (2) of this section shall be paid at the time of registration. If the fee is not paid, the Commonwealth of Kentucky, Transportation Cabinet, shall not register the vehicle for which registration is sought. Persons registering vehicles in other states or Canada shall be subject to requirements of those registration authorities.

➔Section 114. KRS 141.210 is amended to read as follows:

- (1) As used in this section and KRS 141.235, unless the context requires otherwise:
 - (a) "Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income as reported on the taxpayer's federal income tax return become final and unappealable; and
 - (b) "Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

- (2) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the additional tax shall be assessed and a notice of assessment mailed to the taxpayer by the department within four (4) years from the date the return was filed, except as otherwise provided in this subsection.
- (a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.
 - (b) In the case of a return where a taxpayer other than a corporation understates his net income or omits an amount properly includable in net income or both which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net income stated in the return the additional tax may be assessed at any time within six (6) years after the return was filed.
 - (c) In the case of a return where a corporation understates its taxable net income or omits an amount properly includable in taxable net income or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of taxable net income stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.
 - (d) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six months from the date the department receives the final determination of the federal audit from the taxpayer, whichever is later.
 - (e) In the case of the assessment of additional tax resulting from a decrease of a net operating loss deduction or a capital loss deduction, resulting from the carryback of a loss which occurs in a taxable year beginning after December 31, 1993, the additional tax may be assessed at any time before the expiration of the times provided for in this subsection for assessing additional tax for the taxable year which resulted in the net operating loss or capital loss carryback.

The times provided in this subsection may be extended by agreement between the taxpayer and the department. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. For taxable years beginning after December 31, 1993, any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

- (3) If any additional tax is assessed on account of any income which has been returned for taxation by any other taxpayer, the department, with the consent of the other taxpayer, his personal representatives, or heirs, shall reduce the amount of the additional tax assessed for each year by the amount of the income tax paid for that year by the other taxpayer on account of the income in question.
- (4) Every taxpayer shall:
 - (a) Notify the department in writing of every audit of the taxpayer's federal income tax return within thirty (30) days after the taxpayer has or should have had knowledge of the beginning of the audit by the Internal Revenue Service, and
 - (b) Submit a copy of the final determination of the federal audit within *one hundred eighty (180)*~~thirty (30)~~ days of the conclusion of the federal audit.

➔SECTION 115. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *There shall be allowed a nonrefundable and nontransferable credit against the tax imposed by Sections 57 or 58 and 77 of this Act, with the ordering of the credits as provided in Section 105 of this Act, for any taxpayer that, on or after January 1, 2018, timely pays an ad valorem tax to the Commonwealth or any political subdivision thereof for property described in KRS 132.020(1)(n) or 132.099.*
- (2) *The credit allowed under subsection (1) of this section shall be in an amount equal to:*
 - (a) *Twenty-five percent (25%) of the ad valorem taxes timely paid for taxable years beginning on or after January 1, 2018, and before January 1, 2019;*
 - (b) *Fifty percent (50%) of the ad valorem taxes timely paid for taxable years beginning on or after January 1, 2019, and before January 1, 2020;*
 - (c) *Seventy-five percent (75%) of the ad valorem taxes timely paid for taxable years beginning on or after January 1, 2020, and before January 1, 2021; and*

- (d) *One hundred percent (100%) of the ad valorem taxes timely paid, for taxable years beginning on or after January 1, 2021.*
- (3) *If the taxpayer is a pass-through entity, the taxpayer may apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.*
- (4) *No later than October 1, 2019, and annually thereafter, the department shall report to the Interim Joint Committee on Appropriations and Revenue:*
 - (a) *The name of each taxpayer taking the credit permitted by subsection (1) of this section;*
 - (b) *The location of the property upon which the credit was allowed; and*
 - (c) *The amount of credit taken by that taxpayer.*

➔Section 116. KRS 131.010 is amended to read as follows:

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

- (1) "Commissioner" means the commissioner of revenue;
- (2) "Department" means the Department of Revenue;
- (3) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any individual or corporation acting in a fiduciary capacity for any other person;
- (4) "Taxpayer" means any person required or permitted by law or administrative regulation to perform any act subject to the administrative jurisdiction of the department including the following:
 - (a) File a report, return, statement, certification, claim, estimate, declaration, form, or other document;
 - (b) Furnish any information;
 - (c) Withhold, collect, or pay any tax, installment, estimate, or other funds;
 - (d) Secure any license, permit, or other authorization to conduct a business or exercise any privilege, right, or responsibility;
- (5) "Adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the board of governors of the Federal Reserve System;
- (6) "Tax interest rate" means the interest rate determined under KRS 131.183;
- (7) "Tax" includes any assessment or license fee administered by the department; however, it shall not include moneys withheld or collected by the department pursuant to KRS 131.560 or 160.627;
- (8) "Return" or "report" means any properly completed and, if required, signed form, statement, certification, claim estimate, declaration, or other document permitted or required to be submitted or filed with the department, including returns and reports or composites thereof which are permitted or required to be electronically transmitted;
- (9) "Reasonable cause" means an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of moneys due the department pursuant to law or administrative regulation;
- (10) "Fraud" means:
 - (a) Intentional or reckless disregard for the law, administrative regulations, or the department's established policies to evade the filing of any return, report, or the payment of any moneys due to the department pursuant to law or administrative regulation; or
 - (b) The deliberate false reporting of returns or reports with the intent to gain a monetary advantage;
- (11) "Hard copy" means any document, record, report, or other data printed on paper or stored by an imaging system that does not permit additions, deletions, or other changes to the original documents;
- (12) "Electronic record" means a collection of related information stored as bits of data in a medium that supports electronic extraction of the data at the field level, but does not include electronic imaging systems;

- (13) "Electronic imaging systems" means a computer-based system used to store reproductions of documents and records through the use of electronic data processing, or computerized, digital, or optical scanning which records and indexes the document, but does not support electronic extraction of the data at the field level;
- (14) "Electronic fund transfer" means an electronic data processing medium that takes the place of a paper check for debiting or crediting an account and of which a permanent record is made;~~{and}~~
- (15) "Specified tax return preparer" *has the same meaning*~~{means the same}~~ as in 26 U.S.C. sec. 6011(e)(3); *and*
- (16) **"Tax return preparer" has the same meaning as in 26 U.S.C. sec. 7701(a)(36)(A).**

➔Section 117. KRS 131.250 is amended to read as follows:

- (1) For the purpose of facilitating the administration of the taxes it administers, the department may require any tax return, report, or statement to be electronically filed.
- (2) The following reports, returns, or statements shall be electronically filed:
 - (a) The return required by KRS 136.620;
 - (b) For tax periods beginning on or after January 1, 2007, the report required by KRS 138.240;
 - (c) For tax periods beginning on or after August 1, 2010, the report required by KRS 138.260;
 - (d) For taxable years beginning on or after January 1, 2010, the return filed by a specified tax return preparer reporting the annual tax imposed by KRS 141.020, if the specified tax return preparer is required to electronically file the return for federal income tax purposes;
 - (e) The annual withholding statement required by KRS 141.335, if the employer issues *more than twenty-five (25)*~~{one hundred (100) or more}~~ statements annually;~~{and}~~
 - (f) For tax periods beginning on or after July 1, 2005, the return required by KRS 160.615; *and*
 - (g)
 - 1. *For taxable years beginning on or after January 1, 2019, the returns required by subsection (3) of Section 79 of this Act or subsection (1) of Section 81 of this Act, provided that the corporation or pass-through entity has gross receipts of one million dollars (\$1,000,000) or more.*
 - 2. *"Gross receipts" as used in this paragraph means gross receipts reported by the corporation or pass-through entity on their federal income tax return filed for the same taxable year as the return due under KRS Chapter 141.*
- (3)
 - (a) A person required to electronically file a return, report, or statement may apply for a waiver from the requirement by submitting the request on a form prescribed by the department.
 - (b) The request shall indicate the lack of one (1) or more of the following:
 - 1. Compatible computer hardware;
 - 2. Internet access; or
 - 3. Other technological capabilities determined relevant by the department.

➔Section 118. KRS 141.070 is amended to read as follows:

- (1) Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of his net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited on his return with the income tax so paid by him to the other state, upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment, except that application of such credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored.
- (2) An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020(4) if the laws of the state of which such individual was a resident at the time such income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to such state, if the state of residence of such nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner preclude the Department of Revenue from requiring any information reports pursuant to KRS 141.150(2).

- (3) *As used in this section, "state" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.*

➔SECTION 119. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *This section shall apply to taxable years beginning on or after January 1, 2019.*

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

- (a) *"Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;*
- (b) *"Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;*
- (c) *"Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with this chapter;*
- (d) *"Corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and*
- (e) *"Election period" means the ninety-six (96) month period provided for in subsection (4)(d) of this section.*

- (3) *Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year:*

- (a) *1. File a combined report, if the corporation is a member of unitary business group as provided in Section 120 of this Act; or*
2. Make an election to file a consolidated return with all members of the affiliated group as provided in this section; or

- (b) *File a separate return, if paragraph (a) of this subsection does not apply.*

- (4) (a) *An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.*

- (b) *An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income as provided in subsection (2) of Section 56 of this Act, and determining the apportionment fraction in accordance with Section 60 of this Act.*

- (c) *Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the department and shall be submitted to the department on or before the due date of the return, including extensions, for the first taxable year for which the election is made.*

- (d) *Any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the department and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the ninety-sixth consecutive calendar month expires.*

- (e) *For each taxable year for which an affiliated group has made an election provided in paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.*

- (5) *Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.*

- (6) *Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The department may require a further or supplemental report of further information and data necessary for computation of the tax.*
- (7) *In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the department shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible this assessment, the department may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.*

➔SECTION 120. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *This section shall apply to taxable years beginning on or after January 1, 2019.*
- (2) *As used in this section:*
 - (a) *"Combined group" means the group of all corporations whose income and apportionment factors are required to be taken into account as provided in subsection (3) of this section in determining the taxpayer's share of the net income or loss apportionable to this state;*
 - (b) *"Corporation" has the same meaning as in KRS 141.010, including an organization of any kind treated as a corporation for tax purposes under KRS 141.040, wherever located, which if it were doing business in this state would be a taxpayer, and the business conducted by a pass-through entity which is directly or indirectly held by a corporation shall be considered the business of the corporation to the extent of the corporation's distributive share of the pass-through entity income, inclusive of guaranteed payments;*
 - (c) *"Doing business in a tax haven" means being engaged in activity sufficient for that tax haven jurisdiction to impose a tax under United States constitutional standards;*
 - (d) *"Tax haven" means a jurisdiction that, during the taxable year has no or nominal effective tax on the relevant income and:*
 - 1. *Has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefitting from the tax regime;*
 - 2. *Has a tax regime which lacks transparency. A tax regime lacks transparency if the details of legislative, legal, or administrative provisions are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer's correct tax liability, such as accounting records and underlying documentation, is not adequately available;*
 - 3. *Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;*
 - 4. *Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or*
 - 5. *Has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy;*
 - (e) *"Taxpayer" means any corporation subject to the tax imposed under this chapter;*
 - (f) *"Unitary business" means a single economic enterprise that is made up either of separate parts of a single corporation or of a commonly controlled group of corporations that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. For purposes of this section, the term "unitary business" shall be broadly construed, to the extent permitted by the United States Constitution; and*

- (g) *"United States" means the fifty (50) states of the United States, the District of Columbia, and United States' territories and possessions.*
- (3) (a) *Except as provided in Section 119 of this Act, a taxpayer engaged in a unitary business with one (1) or more other corporations shall file a combined report which includes the income, determined under subsection (5) of this section, and the apportionment fraction, determined under Section 60 of this Act and paragraph (d) of this subsection, of all corporations that are members of the unitary business, and any other information as required by the department.*
- (b) *The department may, by administrative regulation, require that the combined report include the income and associated apportionment factors of any corporations that are not included as provided by paragraph (a) of this subsection, but that are members of a unitary business, in order to reflect proper apportionment of income of the entire unitary businesses. Authority to require combination by administrative regulation under this paragraph includes authority to require combination of corporations that are not, or would not be combined, if the corporation were doing business in this state.*
- (c) *In addition, if the department determines that the reported income or loss of a taxpayer engaged in a unitary business with any corporation not included as provided by paragraph (a) of this subsection represents an avoidance or evasion of tax by the taxpayer, the department may, on a case-by-case basis, require all or any part of the income and associated apportionment factors of the corporation be included in the taxpayer's combined report.*
- (d) *With respect to the inclusion of associated apportionment factors as provided in paragraph (a) of this subsection, the department may require the inclusion of any one (1) or more additional factors which will fairly represent the taxpayer's business activity in this state, or the employment of any other method to effectuate a proper reflection of the total amount of income subject to apportionment and an equitable allocation and apportionment of the taxpayer's income.*
- (e) *Notwithstanding paragraphs (a) to (d) of this subsection, a consolidated return may be filed as provided in Section 119 of this Act if the taxpayer makes an election according to Section 119 of this Act.*
- (4) *The use of a combined report does not disregard the separate identities of the taxpayer members of the combined group. Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include, in addition to the other types of income, the taxpayer member's share of apportionable income of the combined group, where apportionable income of the combined group is calculated as a summation of the individual net incomes of all members of the combined group. A member's net income is determined by removing all but apportionable income, expense, and loss from that member's total income as provided in subsection (5) of this section.*
- (5) (a) *Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, which shall include:*
1. *Its share of any income apportionable to this state of each of the combined groups of which it is a member, determined under subsection (6) of this section;*
 2. *Its share of any income apportionable to this state of a distinct business activity conducted within and without the state wholly by the taxpayer member, determined under Section 60 of this Act;*
 3. *Its income from a business conducted wholly by the taxpayer member entirely within the state;*
 4. *Its income sourced to this state from the sale or exchange of capital or assets, and from involuntary conversions, as determined under subsection (8)(k) of this section;*
 5. *Its nonapportionable income or loss allocable to this state, determined under Section 60 of this Act;*
 6. *Its income or loss allocated or apportioned in an earlier year, required to be taken into account as state source income during the income year, other than a net operating loss; and*
 7. *Its net operating loss carryover. If the taxable income computed pursuant to this subsection results in a loss for a taxpayer member of the combined group, that taxpayer member has a Kentucky net operating loss, subject to the net operating loss limitations and carry forward provisions of Section 123 of this Act. The net operating loss is applied as a deduction in a*

subsequent year only if that taxpayer has Kentucky source positive net income, whether or not the taxpayer is or was a member of a combined reporting group in the subsequent year.

- (b) No tax credit or post-apportionment deduction earned by one (1) member of the group, but not fully used by or allowed to that member, may be used in whole or in part by another member of the group or applied in whole or in part against the total income of the combined group.*
 - (c) A post-apportionment deduction carried over into a subsequent year as to the member that incurred it, and available as a deduction to that member in a subsequent year, will be considered in the computation of the income of that member in the subsequent year, regardless of the composition of that income as apportioned, allocated, or wholly within this state.*
- (6) The taxpayer's share of the business income apportionable to this state of each combined group of which it is a member shall be the product of:*
 - (a) The apportionable income of the combined group, determined under subsection (7) of this section; and*
 - (b) The taxpayer member's apportionment fraction, determined under Section 60 of this Act, including in the sales factor numerator the taxpayer's sales associated with the combined group's unitary business in this state, and including in the denominator the sales of all members of the combined group, including the taxpayer, which sales are associated with the combined group's unitary business wherever located. The sales of a pass-through entity shall be included in the determination of the partner's apportionment percentage in proportion to a ratio, the numerator of which is the amount of the partner's distributive share of the pass-through entity's unitary income included in the income of the combined group as provided in subsection (8) of this section and the denominator of which is the amount of pass-through entity's total unitary income.*
- (7) The apportionable income of a combined group is determined as follows:*
 - (a) The total income of the combined group is the sum of the income of each member of the combined group determined under federal income tax laws, as adjusted for state purposes, as if the member were not consolidated for federal purposes; and*
 - (b) From the total income of the combined group determined under subsection (8) of this section, subtract any income and add any expense or loss, other than the apportionable income, expense, or loss of the combined group.*
- (8) To determine the total income of the combined group, taxpayer members shall take into account all or a portion of the income and apportionment factor of only the following members otherwise included in the combined group as provided in subsection (3) of this section:*
 - (a) The entire income and apportionment percentage of any member incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States;*
 - (b) Any member that earns more than twenty percent (20%) of its income, directly or indirectly, from intangible property or service related activities that are deductible against the apportionable income of other members of the combined group, to the extent of that income and the apportionment factor related to that income;*
 - (c) The entire income and apportionment factor of any member that is doing business in a tax haven. If the member's business activity within a tax haven is entirely outside the scope of the laws, provisions, and practices that cause the jurisdiction to meet the definition established in subsection (2)(d) of this section, the activity of the member shall be treated as not having been conducted in a tax haven;*
 - (d) If a unitary business includes income from a pass-through entity, the income to be included in the total income of the combined group shall be the member of the combined group's direct and indirect distributive share of the pass-through entity's unitary income;*
 - (e) Income from an intercompany transaction between members of the same combined group shall be deferred in a manner similar to 26 C.F.R. 1.1502-13. Upon the occurrence of any of the following events, deferred income resulting from an intercompany transaction between members of a combined group shall be restored to the income of the seller, and shall be apportionable income earned immediately before the event:*

1. *The object of a deferred intercompany transaction is:*
 - a. *Resold by the buyer to an entity that is not a member of the combined group;*
 - b. *Resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged; or*
 - c. *Converted by the buyer to a use outside the unitary business in which the buyer and seller are engaged; or*
 2. *The buyer and seller are no longer members of the same combined group, regardless of whether the members remain unitary;*
- (f) *A charitable expense incurred by a member of a combined group shall, to the extent allowable as a deduction provided by Section 170 of the Internal Revenue Code, be subtracted first from the apportionable income of the combined group, subject to the income limitations of that section applied to the entire apportionable income of the group, and any remaining amount shall then be treated as a nonapportionable expense allocable to the member that incurred the expense, subject to the income limitations of that section applied to the nonapportionable income of that specific member. Any charitable deduction disallowed under this paragraph, but allowed as a carryover deduction in a subsequent year, shall be treated as originally incurred in the subsequent year by the same member, and this paragraph shall apply in the subsequent year in determining the allowable deduction in that year;*
- (g) *Gain or loss from the sale or exchange of capital assets, property described by Section 1231(a)(3) of the Internal Revenue Code, and property subject to an involuntary conversion shall be removed from the total separate net income of each member of a combined group and shall be apportioned and allocated as follows:*
1. *For each class of gain or loss, including short-term capital, long-term capital, Internal Revenue Code Section 1231, and involuntary conversions, all members' gain and loss for the class shall be combined, without netting between the classes, and each class of net gain or loss separately apportioned to each member using the member's apportionment percentage determined under subsection (6) of this section;*
 2. *Each taxpayer member shall then net its apportioned business gain or loss for all classes, including any apportioned gain and loss from other combined groups, against the taxpayer member's nonapportionable gain and loss for all classes allocated to this state, using the rules of Sections 1231 and 1222 of the Internal Revenue Code, without regard to any of the taxpayer member's gains or losses from the sale or exchange of capital assets, Internal Revenue Code Section 1231 property, and involuntary conversions which are nonapportionable items allocated to another state;*
 3. *Any resulting state source income or loss, if the loss is not subject to the limitations of Section 1211 of the Internal Revenue Code, of a taxpayer member produced by the application of subparagraphs 1. and 2. of this paragraph shall then be applied to all other state source income or loss of that member; and*
 4. *Any resulting state source loss of a member that is subject to the limitations of Section 1211 of the Internal Revenue Code shall be carried forward by that member, and shall be treated as state source short-term capital loss incurred by that member for the year for which the carryover applies; and*
- (h) *Any expense of one (1) member of the unitary group which is directly or indirectly attributable to the nonapportionable or exempt income of another member of the unitary group shall be allocated to that other member as corresponding nonapportionable or exempt expense, as appropriate.*
- (9) (a) *As a filing convenience, and without changing the respective liability of the group members, members of a combined reporting group shall annually designate one (1) taxpayer member of the combined group to file a single return in the form and manner prescribed by the department, in lieu of filing their own respective returns.*
- (b) *The taxpayer member designated to file the single return shall consent to act as surety with respect to the tax liability of all other taxpayers properly included in the combined report, and shall agree to act as agent on behalf of those taxpayers for the taxable year for matters relating to the combined report.*

If for any reason the surety is unwilling or unable to perform its responsibilities, tax liability may be assessed against the taxpayer members.

➔Section 121. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property or digital property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;
- (2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:
 - (a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and
 - (b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

- (3) ~~{Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump sum, fixed fee contract of public works executed prior to February 5, 1960;~~
- ~~(4)}~~ Gross receipts from occasional sales of tangible personal property or digital property and the storage, use, or other consumption in this state of tangible personal property or digital property, the transfer of which to the purchaser is an occasional sale;
- ~~(4)(5)}~~ Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;
- ~~(5)(6)}~~ Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;
- ~~(6)(7)}~~ Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;
- ~~(7)(8)}~~
 - (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the department~~{of Revenue}~~;
 - (b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:
 1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;
 2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;
 3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

- (c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and
- (d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

~~(8)(9)~~ Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;

~~(9)(10)~~ (a) Gross receipts derived from the sale of, *the following* ~~and the storage, use, or other consumption in this state of,~~ tangible personal property to *a manufacturer or industrial processor if the property is to be directly* used in the manufacturing or industrial processing *process* of tangible personal property at a plant facility and which will be for sale. ~~The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.010. For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.~~

~~(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:~~

1. Materials which enter into and become an ingredient or component part of the manufactured product;
2. Other tangible personal property which is directly used in *the* manufacturing or industrial processing *process*, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
 - a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below;
 - b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, *and* explosives, ~~etc.~~. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind; ~~and~~;
 - c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, *and* spray guns, ~~etc.~~ and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, *and* cutting blades, ~~etc.~~ Normally, for industrial tools to be considered directly used in *the* manufacturing *or industrial processing process*, they shall come into direct contact with the product being manufactured *or processed*; and
3. Materials and supplies that are not reusable in the same manufacturing *or industrial processing* process at the completion of a single manufacturing *or processing* cycle, ~~excluding repair, replacement, or spare parts of any kind~~. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) *The property described in paragraph (a) of this subsection shall be regarded as having been purchased for resale.*

(c) *For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity, and the*

person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

- (d) *The exemption provided in this subsection does not include*~~It shall be noted that in none of the three (3) categories is any exemption provided for~~ repair, replacement, or spare parts~~. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.010;~~
- (10)~~(11)~~ Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;
- (11)~~(12)~~ Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.
- (a) As used in this subsection:
1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and
 2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.
- (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- (12)~~(13)~~ Gross receipts from the sale of water used in the raising of equine as a business;
- (13)~~(14)~~ Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.
- (a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.
- (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- (14)~~(15)~~ Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;
- (15)~~(16)~~ Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;
- (16)~~(17)~~ Gross receipts from the sale of tangible personal property or digital property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other tangible personal property or digital property at a price greater than the amount charged for the property that is returned;
- (17)~~(18)~~ Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;
- (18)~~(19)~~ The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;

- ~~(19)(20)~~ Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:
- (a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or
 - (b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:
 - 1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or
 - 2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;
- ~~(20)(21)~~ Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);
- ~~(21)(22)~~ Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions to county fairs held in Kentucky in any calendar year by a nonprofit county fair board;~~and~~
- ~~(22)(23)~~ Gross receipts from the collection of:
- (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
 - (b) The charge imposed by KRS 65.7629(3);
 - (c) The fee imposed by KRS 65.7634; and
 - (d) The service charge imposed by KRS 65.7636; *and*
- (23) *Gross receipts derived from charges for labor or services to apply, install, repair, or maintain tangible personal property directly used in manufacturing or industrial processing process, and that is not otherwise exempt under subsection (9) of this section or subsection (10) of Section 44 of this Act, if the charges for labor or services are separately stated on the invoice, bill of sale, or similar document given to purchaser.*

➔SECTION 122. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

- (1) *For assessment dates beginning on or after January 1, 2019, computer software, except prewritten computer software, shall be exempt from state and local ad valorem taxes, including the county, city, school, or other taxing district in which it has a taxable situs.*
- (2) *As used in this section, "prewritten computer software" has the same meaning as in Section 36 of this Act.*

➔Section 123. KRS 141.011 is amended to read as follows:

- (1) Notwithstanding any other provision of this chapter, the net operating loss carryback-carryforward deduction, including casualty loss, allowed under Section 172 of the Internal Revenue Code shall apply only to such losses incurred in taxable years beginning after December 31, 1979, and no such loss shall be carried back to taxable years beginning before January 1, 1980. Any casualty loss carryforward authorized by this section as it existed before January 1, 1980, may be carried forward as an itemized deduction until it has been fully deducted.
- (2) The net operating loss carryback deduction shall not be allowed for losses incurred for taxable years beginning on or after January 1, 2005.
- (3) For taxable years when the tax due under KRS 141.040 is based on the alternative minimum calculation provided in KRS 141.040, any net operating loss carryforward deduction that is utilized for the taxable year shall be the amount of taxable net income before the net operating loss deduction, that exceeds the taxable net income equivalent. For purposes of this subsection, "taxable net income equivalent" means the amount of taxable net income that would generate an income tax equal to the alternative minimum calculation liability computed under KRS 141.040.
- (4) For taxable years beginning on or after January 1, 2005, and before December 31, 2006, the net operating loss carryforward deduction of a corporation shall be reduced by the amount of distributive share income, loss, and deduction distributed to an individual or general partnership as defined in KRS 141.206.
- (5) *For taxable years beginning on or after January 1, 2005, but prior to January 1, 2019*, the portion of a net operating loss that is not used to offset the income of an affiliate according to the limits in KRS 141.200(11) shall be available for carryforward, subject to the limitations contained in this section.

➔Section 124. **Kentucky Agricultural Finance Corporation:** Notwithstanding KRS 247.978(2), the total amount of principal which a qualified applicant may owe the Kentucky Agricultural Finance Corporation at any one time shall not exceed \$5,000,000.

➔Section 125. **Administrative Fee on Infrastructure for Economic Development Fund Projects:** A one-half of one percent administrative fee is authorized to be paid to the Kentucky Infrastructure Authority for the administration of each project funded by the Infrastructure for Economic Development Fund for Coal-Producing Counties and the Infrastructure for Economic Development Fund for Tobacco Counties. These administrative fees shall be paid, upon inception of the project, out of the fund from which the project was allocated.

➔Section 126. **Child Victim's Trust Fund License Plate Statutory Suspension:** Notwithstanding KRS 186.162(2)(v), any revenue received from the sale or renewal of Child Victims' Trust Fund license plates in excess of actual costs incurred by the Transportation Cabinet related to the distribution of those plates shall be transferred to the Child Victims' Trust Fund on an annual basis.

➔Section 127. **Settlement Funds:** Notwithstanding KRS 48.005(4), any funds or assets recovered by the Attorney General in connection with a lawsuit in which he or she is a party or has entered his or her appearance on behalf of the Commonwealth of Kentucky, including ex rel. or other types of actions, shall be paid directly to the Commonwealth and deposited in a distinct trust and agency account for each settlement. The Office of Attorney General may recover reasonable costs of litigation as determined by the court and approved by the Secretary of the Finance and Administration Cabinet. The amount of settlement funds used to recover costs of litigation for each settlement shall be reported to the Interim Joint Committee on Appropriations and Revenue. After recovering reasonable costs of litigation, any required consumer restitution or payments shall be made. No other funds or assets shall be disbursed from the trust and agency accounts unless appropriated by the General Assembly. Any disbursements from settlement funds placed within a trust and agency account shall be reported monthly to the Interim Joint Committee on Appropriations and Revenue.

➔Section 128. **Charges for Federal, State, and Local Audits and Reviews:** Any additional expenses incurred by the Auditor of Public Accounts for required audits or reviews of Federal Funds shall be charged to the government or agency that is the subject of the audit or review. The Auditor of Public Accounts receives General Fund appropriations for audits of the statewide systems of personnel and payroll, cash and investments, revenue collection, and the state accounting system. Any expenses incurred by the Auditor of Public Accounts for any other audits or reviews shall be charged to the agency that is the subject of such audit or review. The Auditor of Public Accounts shall maintain a record of all time and expenses for each audit, review, or investigation.

Notwithstanding KRS 43.070(3), a county audited under KRS 43.070(1)(a)1. shall bear seventy-five percent (75%) of the actual expense of the audit. A county audited under KRS 43.070(1)(a)2. or (2)(a) shall bear the total actual expense of the audit. No county shall be required to bear the expense for more than one (1) audit of the same fund or office annually pursuant to KRS 43.070(1)(a)1. or 2., except as provided in KRS 64.810(4).

➔Section 129. **Personnel Board Operating Assessment:** Each agency of the Executive Branch with employees covered by KRS Chapter 18A shall be assessed each fiscal year the amount required for the operation of the Personnel Board. The agency assessment shall be determined by the Secretary of the Finance and Administration Cabinet based on the authorized full-time positions of each agency on July 1 of each year of the biennium. The Secretary of the Finance and Administration Cabinet shall collect the assessment.

➔Section 130. **Water Withdrawal Fees:** The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding KRS 151.710(10), Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

➔Section 131. **Urgent Needs School Assistance:** If a school district receives an allotment for an Urgent Needs School authorized in 2014 Ky. Acts ch. 117, Part I, A., 28., (5), 2014 Ky. Acts ch. 117, Part I, C., 1., (19)(b), and 2016 Ky. Acts ch. 149, part I, A., 28., (4) and (5) and subsequently, as a result of litigation or insurance, receives funds for the original facility, the school district shall reimburse the Commonwealth an amount equal to that received for such purposes. If the litigation or insurance receipts are less than the amount received, the district shall reimburse the Commonwealth an amount equal to that received as a result of litigation or insurance less the district's costs and legal fees in securing the judgment or payment. Any funds received in this manner shall be deposited in the Budget Reserve Trust Fund Account (KRS 48.705).

➔Section 132. **Real Property Disposal:** There is hereby established within the Education and Workforce Development Cabinet the Office of Employment Training Building Proceeds Fund for the support of workforce operations. Notwithstanding KRS 45.229, any fund balance at the close of fiscal year 2018-2019 shall not lapse but

shall be carried forward to the next fiscal year. Pursuant to KRS 45.229, any fund balance at the close of fiscal year 2019-2020 shall lapse to the surplus account of the General Fund. Notwithstanding KRS 45.777, up to \$3,000,000 of proceeds from the disposal under KRS 45A.045 of any state-owned real property operated by the Office of Employment and Training shall be deposited in the Office of Employment Training Building Proceeds Fund.

➔ **Section 133. Office of Procurement Services Administrative Costs:** Notwithstanding KRS 47.010(1), any revenue derived from the establishment of statewide contracts by the Office of Material and Procurement Services shall be credited to a trust and agency account and shall be used to administer the program.

➔ **Section 134. Insurance Surcharge Rate:** Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2018-2020 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund. The calculation of sufficient funds for those programs shall include any Restricted Funds carried forward from fiscal years 2017-2018 and 2018-2019 as provided by the General Assembly.

➔ **Section 135. Medicaid Copayments:** Notwithstanding KRS 205.6312, the Department for Medicaid Services may impose copayments for services rendered to Medicaid recipients, not to exceed the amounts permitted by federal law or waivers.

➔ **Section 136. Medicaid and KCHIP Premiums and Cost-Sharing:** Notwithstanding KRS 205.6312 and 205.6485(1)(c), the Department for Medicaid Services may utilize premiums and cost-sharing for services rendered to Medicaid and KCHIP recipients not to exceed amounts permitted by federal law or waivers. KCHIP premiums are suspended for the 2018-2020 biennium.

➔ **Section 137. Assessment on Insurers:** Notwithstanding KRS 304.17B-021 or any other provision of the Kentucky Revised Statutes to the contrary, for participating insurers who offer Qualified Health Plans, as defined in 42 U.S.C. sec. 18021, being sold on the Federal Exchange in the individual market segment, the assessment in KRS 304.17B-021(1)(a) 2. to 4. may be waived or assessed at any rate between zero and one percent for the 2019 or 2020 Plan Year on any health benefit plan premium written by that insurer in the individual market segment.

➔ **Section 138. Pro Rata Assessment:** The Personnel Cabinet shall collect a pro rata assessment from all state agencies, in all three branches of government, and other organizations that are supported by the System. Those collections shall be deposited and retained in a Restricted Funds account within the Personnel Cabinet.

➔ **Section 139. Service Capacity Upgrade Fund:** Notwithstanding KRS 341.243(4) and (7), beginning July 1, 2018, seventy-five thousandths of one percent shall be withheld from each rate established under KRS 341.270 and 341.272, only if the Unemployment Insurance Trust Fund balance exceeds the balance of the trust fund as of December 31, 2017, and shall be deposited in the Service Capacity Upgrade Fund and used solely in accordance with KRS 341.243(2) and as provided by the General Assembly. The Secretary of the Education and Workforce Development Cabinet may exercise his or her discretion to reduce the percentage rate established in this subsection or suspend required payments to the Service Capacity Upgrade Fund at any time.

➔ **Section 140. Premium and Retaliatory Taxes:** Notwithstanding KRS 304.17B-021(4)(d), premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.

➔ **Section 141. Monthly Per Employee Health Insurance Benefits Assessment:** The Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

➔ **Section 142. Surplus Property:** Notwithstanding KRS 45.777, any funds received by the Commonwealth from the disposal of any surplus property at the Kentucky School for the Blind, the Kentucky School for the Deaf, and the FFA Leadership Training Center shall be deposited in a separate restricted account for each facility and shall not be expended without appropriation authority granted by the General Assembly.

➔ **Section 143. Publishing Requirements:** Notwithstanding KRS 83A.060, 91A.040, and Chapter 424, a county containing a population of more than 90,000 or any city within a county containing a population of more than 90,000, as determined by the 2010 United States Census, may publish enacted ordinances, audits, and bid solicitations by posting the full ordinances, the full audit report including the auditor's opinion letter, or the bid solicitations on an Internet Web site maintained by the county or city government for a period of at least one year. If a county or city publishes ordinances, audits, or bid solicitations on an Internet Web site, the county or city shall also publish an advertisement, in a newspaper qualified in accordance with KRS 424.120, with a description of the

ordinances, audits, or bid solicitations published on the Internet Web site, including the Uniform Resource Locator (URL) where the documents can be viewed.

➔Section 144. (1) Notwithstanding KRS 68.197 or any other statute to the contrary, the provisions of this section shall apply to the levy of license fees by a county that levied a license fee that was in effect on the effective date of this Act, and a city within that county that has levied but not collected a license fee as of the effective date of this Act.

(2) From July 1, 2018, through June 30, 2019, the credit established by KRS 68.197(7) shall only apply to the first one-tenth of one percent (0.1%) of the tax rate imposed by the county within the corporate limits of the city.

(3) From July 1, 2019, through June 30, 2020, the credit established by KRS 68.197(7) shall only apply to the first two-tenths of one percent (0.2%) of the tax rate imposed by the county within the corporate limits of the city.

(4) Any city and county subject to this section may enter into an interlocal agreement to establish a revenue-sharing arrangement that differs from the requirements of this section.

➔Section 145. Notwithstanding KRS 68.197 or any other statute to the contrary, the provisions of this section shall apply as follows from the effective date of this Act through June 30, 2020:

(1) Any set-off or credit of city license fees against county license fees that exists between a city and county as of the effective date of this Act, shall remain in effect as it is on the effective date of this Act;

(2) The provisions of subsection (7) of KRS 68.197 shall not apply to a city and county unless both the city and the county have levied and are collecting license fees on the effective date of this Act;

(3) Any agreement between a city and county related to the sharing of revenues from a license fee that is in effect on the effective date of this Act shall remain in effect, regardless of whether the agreement, by its terms, was set to expire prior to June 30, 2020; and

(4) Any city and county subject to the provisions of subsections (1) to (3) of this section may enter into an interlocal agreement to establish a revenue-sharing arrangement that differs from the requirements of this section.

➔Section 146. Notwithstanding the provisions of KRS 68.197, KRS 68.199, or any other statute to the contrary, any county that:

(1) Enacted an occupational license fee under the authority of KRS 67.083 at a rate of greater than one percent (1%) prior to reaching a population of 30,000; and

(2) Has an agreement with the largest city in the county to share revenues from the occupational license fee levied by the county;

may increase the occupational license fee rate above the rate that was imposed at the time the population of the county grew to beyond 30,000 if the county and the largest city within the county enter into an agreement approving the rate increase, and providing an agreed distribution of revenues from the levy to the city and the county. Other cities within the county may also be parties to the agreement if agreed to by all the parties.

➔Section 147. **Severability of Provisions:** If any section, any subsection, or any provision of this Act is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining sections, subsections, or provisions.

➔Section 148. The following KRS sections are repealed:

136.070 Corporation license tax -- Exemptions -- Apportionment -- Credit.

136.0701 Corporation license tax -- Removal after December 31, 2005.

136.0704 License tax credit for economic revitalization projects -- Computation -- Cap.

136.071 Corporation license tax -- Apportionment of capital when corporation holds stock in other corporations.

141.0202 Deduction of leasehold interest of property contributed as living quarters for homeless persons.

141.0405 Coal incentive tax credit for electric power generation and alternative fuel or gasification facilities -- Procedure for claiming credit -- Priority of application.

141.0406 Time frame for claiming coal incentive tax credit allowed under KRS 141.0405.

141.388 Nonrefundable tax credit for new home purchases.

141.392 Tax credit for donated edible agricultural products.

141.420 Taxable income of individuals from pass through entities -- Allowable credits from pass through entities -- Determining basis in ownership interest.

154.48-010 Definitions for KRS 154.48-010 to 154.48-035.

154.48-015 Findings of General Assembly regarding provisions of KRS 154.48-010 to 154.48-035.

154.48-020 Administrative regulations establishing standards for preliminary approval of eligible companies and projects -- Review by authority and final approval of companies and projects -- Authority's meetings to be governed by provisions of Open Meetings Act.

154.48-025 Environmental stewardship agreements -- Final approval of application -- Tax credits -- Sum of total inducements -- Limitation on use of recycling credit -- Consent of authority required for transfer of agreement.

154.48-030 Department to make annual report on income tax credits and returns to authority.

154.48-035 Short title for KRS 154.48-010 to 154.48-035 -- Kentucky Environmental Stewardship Act.

➔Section 149. The repeal of the following statutes in 2018 HB 366/EN, Section 140, is hereby repealed:

- (1) 141.402 Taxing provisions governing approved companies under Subchapter 25 of KRS Chapter 154;
- (2) 141.421 Tax incentives for alternative fuel, gasification, and renewable energy facilities;
- (3) 154.25-010 Definitions for subchapter;
- (4) 154.25-020 Criteria for approval of eligible companies and job retention projects -- Preliminary approval;
- (5) 154.25-030 Jobs retention project agreement -- Requirements, limitations, and permitted inducements;
- (6) 154.25-040 Wage assessment -- Tax credits for employees -- Department of Revenue to make annual report to authority;
- (7) 154.25-050 Supplemental projects -- Application for and approval of -- Project's activation date -- Inducements, when authorized;
- (8) 154.27-010 Definitions for subchapter;
- (9) 154.27-020 Short title -- Legislative findings -- Purpose of subchapter—Incentives;
- (10) 154.27-030 Application for incentives -- Review -- Approval -- Approval of projects involving new, retrofitted, or upgraded alternative fuel facilities;
- (11) 154.27-040 Tax incentive agreement -- Required provisions;
- (12) 154.27-050 Release of sales tax incentives under tax incentive agreement -- Monitoring, tracking, and reporting requirements;
- (13) 154.27-060 Severance tax incentives;
- (14) 154.27-070 Sales and use tax incentives;
- (15) 154.27-080 Income and limited liability entity tax incentives -- Assessment on employees' wages;
- (16) 154.27-090 Advance disbursement of incentives -- Computation of maximum disbursement amount -- Schedule for disbursement -- Repayment; and
- (17) 154.27-100 Construction of carbon dioxide transmission pipeline -- Proceedings for condemnation under Eminent Domain Act -- Legislative determination of essential public use.

➔Section 150. Section 27 of this Act applies to the sale of cigarettes on or after July 1, 2018.

➔Section 151. Section 28 of this Act applies to the inventory taken on June 30, 2018.

➔Section 152. Sections 36 to 51 and 121 of this Act apply to transactions occurring on or after July 1, 2018.

➔Section 153. Sections 53 to 58, 60, 61, 78, 79, 115, and 118 of this Act apply to taxable years beginning on or after January 1, 2018.

➔Section 154. Sections 119 and 120 of this Act apply to taxable years beginning on or after January 1, 2019.

➔Section 155. Sections 124 to 136 and 138 to 146 of this Act apply to the fiscal year beginning July 1, 2018, and ending June 30, 2019, and the fiscal year beginning July 1, 2019, and ending June 30, 2020, and shall expire at the end of June 30, 2020.

➔Section 156. Section 137 of this Act applies to the plan year beginning January 1, 2019, and ending December 31, 2019, and the plan year beginning January 1, 2020, and ending December 31, 2020, and shall expire at the end of December 31, 2020.

➔SECTION 157. KRS 61.522 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the contrary:

(1) *For purposes of this section:*

- (a) *"Active member" means a member who is participating in the system;*
- (b) *"Employer" means the governing body of a department, as defined by KRS 61.510, or a county as defined by KRS 78.510;*
- (c) *"Employer's effective cessation date" means the last day of the system's plan year in the year in which the employer has elected to cease participation in the system, provided the employer has met the requirements of this section and has given the Kentucky Retirement Systems sufficient notice as provided by administrative regulations promulgated by the systems; and*
- (d) *"Inactive member" means a member who is not participating with the system;*

(2) *Any employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System on July 1, 2015, except as limited by subsection (6) of this section, may:*

- (a) *Voluntarily cease participation in its respective retirement system subject to the requirements and restrictions of this section; or*
- (b) *Be required to involuntarily cease participation in the system under the provisions of this section if the board has determined the employer is no longer qualified to participate in a governmental plan or has failed to comply with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852;*

(3) (a) *If an employer desires to voluntarily cease participation in the Kentucky Employees Retirement System or the County Employees Retirement System as provided by subsection (2)(a) of this section:*

- 1. *The employer shall adopt a resolution requesting to cease participation in the system and shall submit the resolution to the board for its approval;*
- 2. *The cessation of participation in the system shall apply to all employees of the employer;*
- 3. *The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section;*
- 4. *The employer shall provide an alternative retirement program for employees who will no longer be covered by the system, which may include a voluntary defined contribution plan;*
- 5. *If the alternative retirement program established by the employer meets the qualification requirements under 26 U.S.C. sec. 401(a) and is capable of accepting trustee-to-trustee transfers of both pre-tax and post-tax contributions, employees of the employer ceasing participation may seek to transfer his or her account balance to the employer's qualified alternate retirement program within sixty (60) days of the employer's effective cessation date. An employee's election to transfer his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits in the system for the time worked for the employer ceasing participation; and*
- 6. *The employer shall pay by lump sum to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 3. of this paragraph. The full actuarial cost shall not include any employee who seeks a transfer of his or her account balance within sixty (60) days of the employer's effective cessation date as provided by subparagraph 5. of this paragraph. The actuarial cost shall be fixed, and the*

employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid.

- (b) *If the board determines an employer must involuntarily cease participation in the system as provided by subsection (2)(b) of this section:*

 - 1. *The cessation of participation in the system shall apply to all employees of the employer;*
 - 2. *The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section; and*
 - 3. *The employer shall pay by lump sum to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 2. of this paragraph. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid;*
- (4) *Any employee hired on or after the employer's effective cessation date by an employer who has ceased participation in the system as provided by this section shall not, regardless of his or her membership date in the systems administered by Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees Retirement System or the County Employees Retirement System through the employer that ceased participation for the duration of his or her employment with that employer;*
- (5) *If an employer has ceased participation in the system as provided by this section:*

 - (a) *The rights of recipients and the vested rights of inactive members accrued as of the employer's effective cessation date shall not be impaired or reduced in any manner as a result of the employer ceasing participation in the system; and*
 - (b) *Employees of the employer ceasing participation shall accrue benefits through the employer's effective cessation date but shall not accrue any additional benefits in the Kentucky Employees Retirement System or the County Employees Retirement System, including earning years of service credit through the ceased employer, after the employer's effective cessation date for as long as they remain employed by the employer. The day after the employer's effective cessation date, each employee described by this paragraph shall be considered an inactive member with respect to his or her employment with the employer that ceased participation and, subject to the provisions and limitations of KRS 61.510 to 61.705 and 78.510 to 78.852, shall:*

 - 1. *Retain his or her accounts with the Kentucky Employees Retirement System or the County Employees Retirement System and have those accounts credited with interest in accordance with KRS 61.510 to 61.705 and 78.510 to 78.852;*
 - 2. *Retain his or her vested rights in accordance with paragraph (a) of this subsection; and*
 - 3. *Be eligible to take a refund of his or her accumulated account balance in accordance with KRS 61.625 or any other available distribution if eligible;*
- (6) (a) *Kentucky Employees Retirement System employers who are county attorney offices, Commonwealth's attorney offices, local and district health departments governed by KRS Chapter 212, master commissioners, executive branch agencies whose employees are subject to KRS 18A.005 to 18A.200, state-administered retirement systems, state-supported universities and community colleges, property valuation administration offices, or employers in the legislative or judicial branch of Kentucky state government, shall not be eligible to voluntarily discontinue participation in the Kentucky Employees Retirement System unless the employer is a nonstock nonprofit corporation organized under KRS Chapter 273.*

(b) *Only the employers in the County Employees Retirement System who are a nonstock nonprofit corporation organized under KRS Chapter 273 may voluntarily cease participation in the County Employees Retirement System;*
- (7) *For purposes of this section, the full actuarial cost shall be determined by the Kentucky Retirement Systems' consulting actuary separately for the pension fund and the insurance fund using the assumptions and methodology established by the system specifically for determining the full actuarial cost of ceasing participation as of the employer's effective cessation date. For purposes of determining the full actuarial*

cost, the assumed rate of return used to calculate the cost shall be the lesser of the assumed rate of return utilized in the system's most recent actuarial valuation or the yield on a thirty (30) year United States treasury bond as of the employer's effective cessation date, but shall in no case be lower than the assumed rate of return utilized in the system's most recent actuarial valuation minus three and one-half percent (3.5%);

- (8) *The Kentucky Retirement Systems shall promulgate administrative regulations pursuant to KRS Chapter 13A to administer this section; and*
- (9) *Any employer who voluntarily ceases participation, or who is required to involuntarily cease participation as provided in this section, shall hold the Commonwealth harmless from damages, attorney's fees and costs from legal claims for any cause of action brought by any member or retired member of the departing employer.*

➔Section 158. Sections 1 and 3 of House Bill 362/EN as enacted at the 2018 Regular Session of the General Assembly are hereby repealed in their entirety and shall have no effect on the laws of the Commonwealth of Kentucky.

➔Section 159. Notwithstanding any statutory language to the contrary, the reviser of statutes appointed under KRS 7.140 is directed that the provisions of Sections 157 and 158 of this Act shall prevail over the language contained in Sections 1 and 3 of House Bill 362/EN as enacted at the 2018 Regular Session of the General Assembly, and accordingly no part of Sections 1 and 3 of House Bill 362/EN shall be codified in the Kentucky Revised Statutes.

➔Section 160. KRS 138.358 is amended to read as follows:

- (1) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a tank having no dispensing outlet and used exclusively to heat a personal residence, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively to heat the personal residence to which it is delivered. No person so certifying shall use the special fuel for any other purpose. The Department of Revenue may require dealers claiming the credit authorized herein to submit information required by the department to reasonably protect the revenues of the Commonwealth.
- (2) Any special fuels dealer who sells gasoline or special fuels, on which the tax imposed by KRS 138.220 has been paid, exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes. No person so certifying shall use gasoline or the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The Department of Revenue may require dealers claiming the credit authorized herein to submit information required by the department to reasonably protect the revenues of the Commonwealth.
- (3) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a nonhighway use storage tank of a resident nonprofit religious, charitable, or educational organization or state or local governmental agency which has qualified for exemption from Kentucky sales and use tax pursuant to KRS 139.470~~(6)(7)~~ or 139.495 shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement certifying the purchaser's sales and use tax purchase exemption authorization issued pursuant to KRS Chapter 139. No organization or agency so certifying shall use or allow the use of any nonhighway special fuel so acquired for any purpose other than fueling unlicensed vehicles or equipment for nonhighway purposes. The Department of Revenue may require dealers claiming the credit authorized herein to submit information required by the department to reasonably protect the revenues of the Commonwealth.
- (4) Any special fuels dealer who sells special fuels, on which the tax imposed by KRS 138.220 has been paid, which shall be used exclusively for consumption in unlicensed vehicles or equipment for nonhighway purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for nonhighway purposes. No person making the certification shall use the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The Department of Revenue may require dealers claiming the credit authorized in this

subsection to submit information required by the department to reasonably protect the revenues of the Commonwealth. This credit shall not apply to special fuels taxes subject to a refund under KRS 138.445.

➔Section 161. KRS 139.778 is amended to read as follows:

- (1) The county clerk shall collect any applicable sales and use tax for the following tangible personal property purchased out of state at the time the property is offered for titling or first registration:
 - (a) Recreational vehicles as defined in KRS 186.650;
 - (b) Manufactured homes as defined in KRS 186.650;
 - (c) Motorboats as defined in KRS 235.010;
 - (d) Vessels as defined in KRS 235.010; and
 - (e) Any other tangible personal property offered for titling or first registration in Kentucky.
- (2) The tax shall be collected unless the owner:
 - (a) Presents a tax receipt from the seller verifying that the tax has been previously paid;
 - (b) Demonstrates that the transfer of the property is exempt under KRS 139.470(3)~~(4)~~; or
 - (c) Provides a properly executed resale certificate or certificate of exemption in accordance with KRS 139.270.
- (3) The tax collected by the county clerk shall be reported and remitted to the department on forms provided by the department.
- (4) For services provided in collecting the tax, the county clerk shall deduct a fee of three percent (3%) of the tax collected and remit the balance to the department as provided in KRS 138.464.

➔Section 162. Whereas this Act applies to the balancing of the Executive Branch Budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature April 27, 2018.

CHAPTER 208

(HB 201)

AN ACT relating to appropriations providing financing and conditions for the operations, maintenance, support, and functioning of the Transportation Cabinet of the Commonwealth of Kentucky.

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

➔Section 1. The Transportation Cabinet Budget is as follows:

PART I

OPERATING BUDGET

(1) **Funds Appropriations:** There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, Federal Funds accounts, or Bond Funds accounts for the fiscal year beginning July 1, 2017, and ending June 30, 2018, for the fiscal year beginning July 1, 2018, and ending June 30, 2019, and for the fiscal year beginning July 1, 2019, and ending June 30, 2020, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the budget units of the Transportation Cabinet are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

A. TRANSPORTATION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND SUPPORT

	2018-19	2019-20
General Fund	500,000	500,000
Restricted Funds	2,336,300	2,353,900
Road Fund	80,814,900	81,193,100
TOTAL	83,651,200	84,047,000

(1) **Biennial Highway Construction Plan:** The Secretary of the Transportation Cabinet shall produce a single document that ~~contains two separately identified sections, as follows:~~

~~Section 1} shall detail the enacted fiscal biennium 2018-2020 Biennial Highway Construction Program and Section 2 shall detail the 2018-2020 Highway Preconstruction Program Plan for fiscal year 2018-2019 through fiscal year 2023-2024 as identified by the 2018 General Assembly. This document shall mirror in data type and format the fiscal year 2018-2024 Recommended Six Year Road Plan as submitted to the 2018 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within 60 days of adjournment of the 2018 Regular Session of the General Assembly}.~~

(2) **Debt Service:** Included in the above Road Fund appropriation is \$7,107,800 in fiscal year 2018-2019 and \$7,112,200 in fiscal year 2019-2020 for debt service on previously authorized bonds.

(3) **Adopt-A-Highway Litter Program:** The Transportation Cabinet and the Energy and Environment Cabinet may receive, accept, and solicit grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as Restricted Funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

(4) **SAFE Patrol Program:** The Transportation Cabinet shall continue the SAFE Patrol Program at the current service level. The primary mission of the Cabinet's SAFE Patrol shall be motorist assistance. The SAFE Patrol shall be restricted to providing only assistance services on interstates, parkways, and other limited-access highways.

(5) **Riverport Improvements:** Included in the above General Fund appropriation is \$500,000 in each fiscal year to improve public riverports within Kentucky. ~~Improvements shall be limited to dredging and maintenance of access.~~ The Secretary of the Transportation Cabinet, in conjunction with the Kentucky Water Transportation Advisory Board, shall determine how the funds are distributed.

2. AVIATION

	2018-19	2019-20
Restricted Funds	9,763,400	9,615,100
Federal Funds	213,700	213,700
Road Fund	2,779,600	2,789,000
TOTAL	12,756,700	12,617,800

(1) **Operational Costs:** Notwithstanding KRS 183.525(5), the above Restricted Funds appropriation includes operational costs of the program in each fiscal year.

(2) **Debt Service:** Included in the above Road Fund appropriation is \$1,830,600 in fiscal year 2018-2019 and \$1,829,800 in fiscal year 2019-2020 for debt service on previously authorized bonds. Notwithstanding KRS 183.525, \$1,830,600 in fiscal year 2018-2019 and \$1,829,800 in fiscal year 2019-2020 is transferred to the Road Fund from the Kentucky Aviation Economic Development Fund to support debt service on those bonds.

3. DEBT SERVICE

	2018-19	2019-20
Road Fund	160,014,400	150,097,400

(1) **Economic Development Road Lease-Rental Payments:** Included in the above Road Fund appropriation is \$159,964,400 in fiscal year 2018-2019 and \$150,047,400 in fiscal year 2019-2020 for Economic

Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously authorized by the General Assembly and issued by the Kentucky Turnpike Authority.

(2) Debt Payment Acceleration Fund Account: Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2018-2020 fiscal biennium.

(3) Excess Lease-Rental Payments: Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Kentucky Turnpike Authority shall be transferred to the State Construction Account.

4. HIGHWAYS

	2018-19	2019-20
Restricted Funds	113,329,900	113,199,900
Federal Funds	734,670,300	735,446,300
Road Fund	806,608,700	796,751,000
TOTAL	1,654,608,900	1,645,397,200

(1) Debt Service: Included in the above Federal Funds appropriation is \$95,240,600 in fiscal year 2018-2019 and \$95,141,400 in fiscal year 2019-2020 for debt service on Grant Anticipation Revenue Vehicle (GARVEE) Bonds previously appropriated by the General Assembly.

(2) State Supported Construction Program: Included in the above Road Fund appropriation is \$340,067,000 in fiscal year 2018-2019 and \$282,995,500 in fiscal year 2019-2020 for the State Supported Construction Program.

(3) Biennial Highway Construction Program: Included in the State Supported Construction Program is \$309,067,000 in fiscal year 2018-2019 and \$251,995,500 in fiscal year 2019-2020 from the Road Fund for state construction projects in the fiscal biennium 2018-2020 Biennial Highway Construction Program.

(4) Highway Construction Contingency Account: Included in the State Supported Construction Program is \$31,000,000 in each fiscal year for the Highway Construction Contingency Account. ~~[Notwithstanding KRS 224.43-505(2)(d), included in the Highway Construction Contingency Account is \$5,000,000 in each fiscal year to support the Kentucky Pride Fund created in KRS 224.43-505.]~~ Notwithstanding KRS 45.247 and 177.320(4), included in the Highway Construction Contingency Account is \$290,000 in each fiscal year for the Kentucky Transportation Center. ~~[Also included in the Highway Construction Contingency Account for Shortline Railroads is \$1,600,000 in each fiscal year for public safety and service improvements which shall not be expended unless matched with non-state funds equaling at least 20 percent of the total amount for any individual project.]~~

(5) 2016-2018 Biennial Highway Construction Plan: Projects in the enacted 2016-2018 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2018-2020 fiscal biennium. If projects in previously enacted highway construction plans conflict with the 2018-2020 Biennial Highway Construction Plan, the projects in the 2018-2020 Biennial Highway Construction Plan shall control. The Secretary shall make every effort to maintain highway program delivery by adhering to the timeframes included in the 2018-2020 Biennial Highway Construction Plan for those projects.

(6) State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys or Toll Credits to match federal highway moneys.

(7) Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) Any demonstration-specific or project-specific moneys shall be used on the project identified; and (b) All other funds shall be used to ensure that projects in the fiscal biennium 2018-2020 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Highway Preconstruction Program.

(8) Road Fund Cash Management: The Secretary of the Transportation Cabinet may continue the Cash Management Plan to address the policy of the General Assembly to expeditiously initiate and complete projects in the fiscal biennium 2018-2020 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. Under the approved Cash Management Plan, the Secretary shall continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet

expenditures consistent with appropriations provided. The Transportation Cabinet shall provide quarterly reports to the Interim Joint Committee on Appropriations and Revenue when the General Assembly is not in session and the Standing Committees on Appropriations and Revenue when the General Assembly is in session beginning July 1, 2018.

(9) Carry Forward of Appropriation Balances: Notwithstanding KRS 45.229, unexpended Road Fund appropriations in the Highways budget unit for the Construction program, the Maintenance program, and the Research program in fiscal year 2017-2018 and in fiscal year 2018-2019 shall not lapse but shall carry forward. Unexpended Federal Funds and Restricted Funds appropriations in the Highways budget unit for the Construction program, the Maintenance program, the Equipment Services program, and the Research program in fiscal year 2017-2018 and in fiscal year 2018-2019, up to the amount of ending cash balances and unissued Highway and GARVEE Bond Funds, to include any interest income earned on those bond funds, and grant balances shall not lapse but shall carry forward.

(10) Federally Supported Construction Program: Included in the above Federal Funds appropriation is \$617,801,000 in fiscal year 2018-2019 and \$618,833,700 in fiscal year 2019-2020 for federal construction projects.

(11) Highways Maintenance: Included in the above Highways Road Fund appropriation is \$377,068,100 in fiscal year 2018-2019 and \$371,374,100 in fiscal year 2019-2020 for Highways Maintenance. Highways Maintenance positions may be filled to the extent the above funding level and the Highways Maintenance continuing appropriation are sufficient to support those positions.

~~[(12) Delayed Projects Status Report: The Secretary of the Transportation Cabinet shall report by September 30 of each fiscal year to the Interim Joint Committee on Transportation any project included in the enacted Biennial Highway Construction Plan which has been delayed beyond the fiscal year for which the project was authorized. The report shall include:~~

- ~~(a) The county name;~~
- ~~(b) The Transportation Cabinet project identification number;~~
- ~~(c) The route where the project is located;~~
- ~~(d) The length of the project;~~
- ~~(e) A description of the project and the scope of improvement;~~
- ~~(f) The type of local, state, or federal funds to be used on the project;~~
- ~~(g) The stage of development for the design, right of way, utility, and construction phases;~~
- ~~(h) The fiscal year in which each phase of the project was scheduled to commence;~~
- ~~(i) The estimated cost for each phase of the project;~~
- ~~(j) A detailed description of the circumstances leading to the delay; and~~
- ~~(k) The same information required in paragraphs (a) to (i) of this subsection for the project or projects advanced with funds initially scheduled for the delayed project.]~~

5. JUDGMENTS

(1) Payment of Judgments: Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

6. PUBLIC TRANSPORTATION

	2018-19	2019-20
General Fund	5,589,000	5,589,000
Restricted Funds	775,400	861,900
Federal Funds	25,781,600	25,768,300
TOTAL	32,146,000	32,219,200

(1) Toll Credits: The Transportation Cabinet is authorized to maximize, to the extent necessary, the use of Toll Credits to match Federal Funds for transit systems capital grants.

(2) **Nonpublic School Transportation:** Included in the above General Fund appropriation is ~~[\$3,500,000 in each fiscal year for]~~nonpublic school transportation.

7. REVENUE SHARING

	2018-19	2019-20
Road Fund	336,345,200	337,318,200

(1) **County Road Aid Program:** Included in the above Road Fund appropriation is \$127,056,900 in fiscal year 2018-2019 and \$127,422,900 in fiscal year 2019-2020 for the County Road Aid Program in accordance with KRS 177.320(1) to (3), 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(4), no County Road Aid funds are appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(2) **Rural Secondary Program:** Included in the above Road Fund appropriation is \$154,134,600 in fiscal year 2018-2019 and \$154,578,600 in fiscal year 2019-2020 for the Rural Secondary Program in accordance with KRS 177.320(1) to (3) and 177.330 to 177.360. Notwithstanding KRS 177.320(4), no Rural Secondary funds are appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(3) **Municipal Road Aid Program:** Included in the above Road Fund appropriation is \$53,461,100 in fiscal year 2018-2019 and \$53,615,100 in fiscal year 2019-2020 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.320(4), no Municipal Road Aid funds are appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

(4) **Energy Recovery Road Fund:** Included in the above Road Fund appropriation is \$320,000 in fiscal year 2018-2019 and \$320,000 in fiscal year 2019-2020 for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.9772, 177.978, 177.979, and 177.981.

(5) **Continuation of the Flex Funds and the 80/20 Bridge Replacement Programs:** The Transportation Cabinet shall continue the Flex Funds and the 80/20 Bridge Replacement Programs within the Rural Secondary Program.

(6) **County Judge/Executive Expense Allowance:** Notwithstanding KRS 67.722, each County Judge/Executive not serving in a consolidated local government shall receive an annual expense allowance of \$2,400 during the 2018-2020 fiscal biennium. Payment shall be made quarterly from the Rural Secondary Program.

8. VEHICLE REGULATION

	2018-19	2019-20
Restricted Funds	15,346,800	15,435,200
Federal Funds	4,634,500	4,637,700
Road Fund	30,364,200	27,323,400
TOTAL	50,345,500	47,396,300

(1) **Debt Service:** Included in the above Road Fund appropriation is \$4,748,800 in fiscal year 2018-2019 and \$1,604,000 in fiscal year 2019-2020 for debt service on previously authorized bonds.

TOTAL - TRANSPORTATION CABINET

	2018-19	2019-20
General Fund	6,089,000	6,089,000
Restricted Funds	141,551,800	141,466,000
Federal Funds	765,300,100	766,066,000
Road Fund	1,416,927,000	1,395,472,100
TOTAL	2,329,867,900	2,309,093,100

PART II

CAPITAL PROJECTS BUDGET

(1) **Capital Construction Fund Appropriations and Reauthorizations:** Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required.

These items are listed in order to continue their current authorization into the 2018-2020 fiscal biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

(2) Expiration of Existing Line-Item Capital Construction Projects: All appropriations to existing line-item capital construction projects expire on June 30, 2018, unless reauthorized in this Act with the following exceptions: (a) A construction contract for the project shall have been awarded by June 30, 2018; (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds, if the authorized project completes an initial draw on the line of credit within the biennium immediately subsequent to the original authorization; and (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this subsection, the disposition of 2016-2018 fiscal biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(5)(c).

(3) Bond Proceeds Investment Income: Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project shall be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations.

(4) Expiring Debt: The following amount of previously authorized Bond Funds shall expire upon passage of this Act: Grant Anticipation Revenue Vehicle (GARVEE) Bonds for the US-68/KY-80 Lake Barkley and Kentucky Lake Bridges Project (\$59,500,000) as set forth in 2010 (1st Extra. Sess.) Ky. Acts ch. 3, Part I, A., 4., (18).

(5) Appropriations for Projects Not Line-Itemized: Inasmuch as the identification of specific projects cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following area: Aircraft Maintenance Pool. Any projects estimated to cost over \$1,000,000 and equipment estimated to cost over \$200,000 shall be reported to the Capital Projects and Bond Oversight Committee.

A. TRANSPORTATION CABINET

Budget Units	2018-19	2019-20
--------------	---------	---------

1. GENERAL ADMINISTRATION AND SUPPORT

001. Maintenance Pool - 2018-2020

Road Fund	2,950,000	2,950,000
-----------	-----------	-----------

002. Construct Crittenden County Maintenance Facility and Salt Storage

Road Fund	1,850,000	-0-
-----------	-----------	-----

003. Construct Hopkins County Maintenance Facility and Salt Storage

Road Fund	1,800,000	-0-
-----------	-----------	-----

004. Construct Knott County Maintenance Facility and Salt Storage -

Additional Reauthorization (\$1,440,000)

Road Fund	750,000	-0-
-----------	---------	-----

005. Construct Ballard County Maintenance Facility and Salt Storage -

Reauthorization (\$1,584,000 Road Fund)

006. Construct Clay County District Office - Reauthorization and Reallocation (\$7,445,000 Road Fund)

(1) Reauthorization and Reallocation: The above project is authorized from a reallocation of 2016 Ky. Acts ch. 148, Part II, A., 1., 003..

2. AVIATION

001. Aircraft Maintenance Pool - 2018-2020 -

Investment Income	700,000	700,000
-------------------	---------	---------

002. Kentucky Aviation Economic Development Fund Reauthorization and Reallocation (\$18,750,000 Bond Funds)

(1) Reauthorization and Reallocation: The above project is authorized from a partial reallocation of projects set forth in 2014 Ky. Acts ch. 117, Pt. II, B., 1. and 2016 Ky. Acts ch. 149, Pt. II, B., 1. to support the development, rehabilitation, and maintenance of publicly owned or operated aviation facilities.

3. HIGHWAYS

001. Repair Loadometer and Rest Areas - 2018-2020

Road Fund	1,500,000	1,500,000
-----------	-----------	-----------

002. Road Maintenance Parks - 2018-2020

Road Fund	1,250,000	1,250,000
-----------	-----------	-----------

003. Various Environmental Compliance - 2018-2020

Road Fund	490,000	440,000
-----------	---------	---------

004. Jefferson County - Lease

PART III

FUNDS TRANSFER

The General Assembly finds that the financial condition of state government requires the following action.

Notwithstanding the statutes or requirements of the Restricted Funds enumerated below, there is transferred to the General Fund the following amounts in fiscal year 2018-2019 and fiscal year 2019-2020:

	2018-19	2019-20
A. TRANSPORTATION CABINET		
1. Aviation		
Agency Revenue Fund	426,100	424,000
(KRS 183.525(4) and (5))		
2. Vehicle Regulation		
Agency Revenue Fund	4,644,800	4,000,000
(KRS 186.040(6)(a))		
3. Vehicle Regulation		
Agency Revenue Fund	-0-	2,000,000
(KRS 186.040(6)(b))		
4. Vehicle Regulation		
Agency Revenue Fund	2,300,000	-0-
(KRS 186.240(3))		
TOTAL - FUNDS TRANSFER	7,370,900	6,424,000

PART IV

TRANSPORTATION CABINET BUDGET SUMMARY

OPERATING BUDGET

	2018-19	2019-20
General Fund	6,089,000	6,089,000
Restricted Funds	141,551,800	141,466,000
Federal Funds	765,300,100	766,066,000
Road Fund	1,416,927,000	1,395,472,100
SUBTOTAL	2,329,867,900	2,309,093,100

CAPITAL PROJECTS BUDGET

	2018-19	2019-20
Road Fund	10,590,000	6,140,000
Investment Income	700,000	700,000
SUBTOTAL	11,290,000	6,840,000

TOTAL - TRANSPORTATION CABINET BUDGET

	2018-19	2019-20
General Fund	6,089,000	6,089,000
Restricted Funds	141,551,800	141,466,000
Federal Funds	765,300,100	766,066,000
Road Fund	1,427,517,000	1,401,612,100
Investment Income	700,000	700,000
TOTAL FUNDS	2,341,157,900	2,315,933,100

Vetoed in part April 26, 2018. Vetoed portions are indicated with brackets and strike-throughs. Portions not vetoed became law April 26, 2018.

CHAPTER 209

(HB 203)

AN ACT making appropriations for the operations, maintenance, support, and functioning of the Judicial Branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state-supported activities.

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

➔Section 1. The Judicial Branch Budget is as follows:

PART I**OPERATING BUDGET**

(1) **Funds Appropriations:** There is appropriated out of the General Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2018, and ending June 30, 2019, and for the fiscal year beginning July 1, 2019, and ending June 30, 2020, the following sums to be used for the purposes of the Judicial Branch of the government of the Commonwealth of Kentucky, including the Supreme Court, Court of Appeals, Circuit Court, Family Court, District Court, the Administrative Office of the Courts, Judicial Retirement, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and for services performed by the Circuit Court Clerks' offices, including both Circuit and District Court support.

A. JUDICIAL BRANCH**Budget Units****1. Court of Justice****a. Court Operations and Administration**

	2018-19	2019-20
General Fund	266,233,000	269,709,200
Restricted Funds	35,143,600	35,204,700
Federal Funds	1,982,700	1,369,200

TOTAL	303,359,300	306,283,100
-------	-------------	-------------

(1) **Defined Calculations:** Included in the above General Fund appropriation is \$20,908,500 in fiscal year 2018-2019 and \$23,242,600 in fiscal year 2019-2020 to provide funds for the increase in the employer cost of health and life insurance and the employer cost of retirement.

(2) **Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2017-2018 shall not lapse and shall continue into fiscal year 2018-2019, and any unexpended balance remaining at the close of fiscal year 2018-2019 shall not lapse and shall continue into fiscal year 2019-2020.

(3) **Civil Filing Fees:** Pursuant to its authority, if the Supreme Court retains the increase in civil filing fees that was effective in 2008, the additional income resulting from the fee increases, not to exceed \$5,000,000 in each fiscal year of the biennium, shall be deposited into a trust and agency account for court operations. Any revenue generated by these increases in excess of the \$5,000,000 in each fiscal year of the biennium shall be deposited into the General Fund.

(4) **Civil Filing Fees - Non-Elected Personnel:** Pursuant to its authority, if the Supreme Court increases civil filing fees above what was effective in 2008, the additional income resulting from the fee increases, not to exceed \$10,468,100 in each fiscal year of the biennium, shall be deposited into a trust and agency account for salary increases to non-elected personnel. Any revenue generated by these increases in excess of \$10,468,100 in each fiscal year of the biennium shall be deposited to the credit of the General Fund.

(5) **Night Court in Jefferson County:** The Administrative Office of the Courts shall continue the operations and current schedule of night court in Okolona and Middletown in Jefferson County in fiscal year 2018-2019 and fiscal year 2019-2020.

(6) **County Employees Retirement System Excess Savings:** If General Fund-required retirement contributions to the County Employees Retirement System are below \$14,499,300 in fiscal year 2018-2019 and \$14,891,800 in fiscal year 2019-2020, those savings shall fund salary increases for elected officials not to exceed 2.5 percent in fiscal year 2018-2019 and 2.5 percent in fiscal year 2019-2020. Any additional savings realized under this section shall be used for non-elected personnel salary increases.

~~[(7) **Circuit Clerk Expense Allowance:** Notwithstanding KRS 64.058, each Circuit Clerk shall receive an expense allowance of \$2,400 annually, at the rate of \$200 per month, in the 2018-2020 fiscal biennium.]~~

b. Local Facilities Fund

	2018-19	2019-20
General Fund	109,097,700	109,097,700

(1) **Local Court Facility Compensation:** Included in the above General Fund appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

(2) **Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2017-2018 shall not lapse and shall continue into fiscal year 2018-2019, and any unexpended balance remaining at the close of fiscal year 2018-2019 shall not lapse and shall be continued into fiscal year 2019-2020.

(3) **Madison County Lease:** Included in the above General Fund appropriation is \$800,000 in each fiscal year to allow the Administrative Office of the Courts to enter into a lease for office space as needed for Madison County Circuit Court and to provide necessary furnishings, infrastructure, and security equipment.

c. Local Facilities Use Allowance Contingency Fund

	2018-19	2019-20
General Fund	-0-	-0-

(1) **Funds Carry Forward:** Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2017-2018 shall not lapse and shall continue into fiscal year 2018-2019, and any unexpended balance remaining at the close of fiscal year 2018-2019 shall not lapse and shall continue into fiscal year 2019-2020 to provide for cost overruns in authorized court facilities projects not to exceed 15 percent of the use allowance in accordance with KRS Chapter 26A.

TOTAL - Court of Justice

	2018-19	2019-20
General Fund	375,330,700	378,806,900
Restricted Funds	35,143,600	35,204,700
Federal Funds	1,982,700	1,369,200
TOTAL	412,457,000	415,380,800

2. Judicial Retirement System

	2018-19	2019-20
General Fund	9,566,400	9,570,800

(1) **Judicial Retirement Benefits:** General Fund amounts are included to provide actuarial-assessed judicial retirement benefits pursuant to KRS 21.345 to 21.580.

(2) **Pension Benefit Increase:** Notwithstanding KRS 21.405(5), no pension benefit increase shall be granted to recipients of a retirement allowance under KRS 21.345 to 21.580 on July 1, 2018, or July 1, 2019.

(3) **Administrative Expenses:** Pursuant to KRS 21.540, administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary moneys, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.

TOTAL - JUDICIAL BRANCH

	2018-19	2019-20
General Fund	384,897,100	388,377,700
Restricted Funds	35,143,600	35,204,700
Federal Funds	1,982,700	1,369,200
TOTAL	422,023,400	424,951,600

PART II

CAPITAL PROJECTS BUDGET

(1) **Authorization of Capital Projects:** It is the intent of the General Assembly that any capital project proposed by any state government entity, including the agencies and subdivisions of the Court of Justice, shall be authorized by the General Assembly prior to the project's financing and construction, in accordance with KRS 7A.010, 7A.120, 45.750, 45.760, 45.763, 45.765, and 48.110. Pursuant to KRS 45.760(1), the amount allotted, from all sources, for expenditure on any capital project, including leases as defined by KRS 45.750, shall not exceed the estimated cost as shown in this Act.

(2) **Capital Projects and Bond Oversight Committee:** Capital construction projects and major items of equipment that are not specifically listed in this Act may be authorized only after submission of the project to the Capital Projects and Bond Oversight Committee and in accordance with the other requirements of KRS 45.760(7). Moneys may be transferred to the allotment account of any capital project only after submission of the project to the Capital Projects and Bond Oversight Committee and in accordance with the other requirements of KRS 45.760(6). As required by KRS 45.760, all capital construction items authorized in this Act shall be constructed in accordance with this Act, supporting documentation considered by the General Assembly, and Judicial Branch budget records. Any modifications to the scope of a capital construction project or to a lease shall be reported to the Capital Projects and Bond Oversight Committee before execution.

(3) **Local Facilities Use Allowance Contingency Fund:** For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the Chief Justice may transfer funds from other Judicial Branch accounts in accordance with Part III, General Provisions, Section 6. of this Act to make the necessary payments.

(4) **Deferred Funding:** General Fund support to provide operating costs totaling \$680,800, annualized use allowance payments totaling \$2,345,700, and nonrecurring furniture and equipment costs of \$2,000,000 for Bath and Oldham Counties is deferred to the 2020-2022 fiscal biennium.

(5) **Court Facility Planning Process:** The county shall require the Project Development Board to hire a certified architect not otherwise involved with the project to conduct an independent feasibility study to determine whether the needs of the community and the Court of Justice can best be met through the construction of a freestanding building, or through an addition and/or renovation of the existing court facility. The cost for this study shall be an accepted and approved portion of the planning process, and shall be eligible for reimbursement from the bond proceeds.

(6) **Jefferson County:** General Fund support of \$226,000 is contained in the Local Facilities Fund budget in each fiscal year for use allowance payments.

A. JUDICIAL BRANCH

Budget Units	2018-19	2019-20
1. Local Facilities Fund		
001. Construction - Bath County		
Other Funds	9,315,000	-0-
002. Renovation/Addition - Oldham County		
Other Funds	22,800,000	-0-
003. Renovation - Jefferson County Hall of Justice		
Other Funds	2,590,000	-0-
2. Lease Authorizations		
001. Franklin County - Lease - Court of Appeals		
002. Jefferson County - Lease - Parking		

PART III

GENERAL PROVISIONS

1. Expenditure Authority: The Director of the Administrative Office of the Courts, with the approval of the Chief Justice, may expend any of the funds appropriated for court operations and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. All expenditures shall conform with Part III, General Provisions, Section 6. of this Act. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the Judicial Branch of government.

2. Severability of Budget Provisions: Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provision thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

3. Duplicate Appropriations: Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2018 Regular Session of the General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

4. Priority of Individual Appropriations: KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

5. Final Budget Document: The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2018-2020 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission, and an informational copy shall be furnished to the Finance and Administration Cabinet, within 60 days of the adjournment of the 2018 Regular Session of the General Assembly.

6. Transferability of Funds: The Chief Justice of the Commonwealth of Kentucky shall have the ability to transfer funds to other programs and budget units within the Judicial Branch. Any funds transferred to other budget units within the Judicial Branch may be used to support any activity, program, or operation of the budget unit or program receiving the respective funds.

7. Appropriations Revisions: Proposed revisions to General Fund, Restricted Funds, and Federal Funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most

current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains variations from the anticipated amount.

8. Maximum Salary of Trial Commissioners: Pursuant to KRS 24A.100(3), no trial commissioner shall be compensated at a rate greater than \$7,200. No funding is provided for trial commissioners commissioned in counties with a residing District Judge.

9. Issuance of Paychecks to Employees: Notwithstanding 101 KAR 2:095, Section 10, the state payroll that would normally be scheduled to be paid on June 30, 2018, June 30, 2019, and June 30, 2020, shall not be issued prior to July 1, 2018, July 1, 2019, and July 1, 2020.

10. Authorized Personnel Complement: On July 1, 2018, the Administrative Office of the Courts shall establish a record for each budget unit of authorized permanent full-time and other positions based upon the enacted Judicial Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled permanent full-time and all other positions shall not exceed the authorized complements pursuant to this section. The Director of the Administrative Office of the Courts may request an increase in the number of authorized positions to the Chief Justice. Upon approval, the Administrative Office of the Courts may authorize the employment of individuals in addition to the authorized complement. A report of the actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

11. Unexpended Use Allowance: Notwithstanding any other provision of the Kentucky Revised Statutes, any General Fund moneys appropriated for use allowance payments in fiscal years 2018-2019 and 2019-2020 that are not expended specifically for use allowance payments shall be transferred to the Budget Reserve Trust Fund Account (KRS 48.705).

12. Debt Restructuring: Notwithstanding any other provision of the Kentucky Revised Statutes, use allowance payments shall not be amended to reflect debt restructuring transactions undertaken by a county during the 2018-2020 fiscal biennium.

PART IV

FUNDS TRANSFER

The Judicial Branch shall transfer \$7,700,000 in fiscal year 2018-2019 and \$7,500,000 in fiscal year 2019-2020 to the General Fund.

PART V

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with KRS Chapter 48, except that obligations essential to the constitutional duties and use allowance of the Judicial Branch shall be exempt from any Budget Reduction Plan. The level of participation in a Budget Reduction Plan shall be at the discretion of the Chief Justice and shall not exceed the actual percentage of revenue shortfall.

Vetoed in part April 13, 2018. Vetoed portions are indicated with brackets and strike-throughs. Portions not vetoed became law April 14, 2018.